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Andrew Goldsworthy
Acting Executive Director
Consumer, Building and Occupational Services
Department of Justice
PO Box 56
Rosny Park TAS 7018



Australian Institute of Architects

Email: CBOS.Comms@justice.tas.gov.au

Dear Andrew,

Draft Building Services Providers Licencing Determination

On behalf of the Tasmanian Chapter of the Australian Institute of Architects (the Institute), we would like to thank the Department for the opportunity to provide response to the Draft Building Services Providers Licencing Determination (the Determination). The response to the document is outlined below in italics, in relation to the relevant clause or section of the document.

Definitions used in this Determination

“Gross floor area” in relation to a building, means the total floor area of all covered areas of a building, whether those covered areas are enclosed or unenclosed

This definition may be incomplete or create some confusion as it does not refer to the exclusion of eaves and overhangs. The definition needs extending with specific references to the Australian Standard Method of Measurement ASMM6.

Part 5 - Categories and Classes of Building Services Providers

Architect

Any Explanatory Notes on understanding the scope of work	Scope allows for taking of responsibility for all aspects of the design of buildings and preparation of documentation that may be submitted for a Certificate of Likely Compliance. Projects may include: <ul style="list-style-type: none">• engineering design work (of structures or their components) but only if acting within their area of competence; or• building services design, including plumbing or hydraulic work, but only if acting within their area of competence.
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The wording relating to the ‘Explanatory Notes on understanding the scope of work’ states that an architect takes responsibility for all aspects of design and documentation that may be submitted for a Certificate of Likely Compliance. It should be noted that it is Institute policy that architects aim for full commissions, including contract administration, and registered architects are required to be able to administer a contract, as outlined in [The National Standard of Competency for Architects \(2015 edition\)](#). The suite of Australian Building Industry Contracts (ABIC) jointly authored by the Institute and Master Builders Australia are used by our members and can only be administered by an architect. When an architect is engaged for government projects, they also deliver contract administration as a ‘superintendent’. Therefore, the scope should also include to Final Certificate where applicable and requires more clarification.

Individual licence restrictions/ conditions?	e.g. If the Administrator allows individual licensee to work on certain building classes only <ul style="list-style-type: none"> • Can grant a licence to work on a particular building project
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Scope of work (I): Standard requirements:	Architectural design and documentation for buildings of all classes and unrestricted size
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We would like clarification as to why the Administrator would allow an individual licensee to work on certain building classes only when the ‘scope of work’ allows ‘architectural design and documentation for buildings of all classes and unrestricted size’.

Obligations of every licensee after a licence has been granted:	
Continuing Professional Development	<ul style="list-style-type: none"> • 20 points minimum per annum for this Category; <ul style="list-style-type: none"> ○ Refer to CPD scheme in Part 8 for details

The Institute suggests that as registered architects practicing in Tasmania are expected to comply with the AACA/RAIA Joint Policy on Continuing Professional Development (CPD), as set out by the Board of Architects of Tasmania (BofA), the requirements for architects should be consistent with this policy. The policy can be accessed [here](#), and the CPD requirements as outlined by the BofA can be accessed [here](#). This policy is more rigorous than the CPD requirements outlined in this document and we believe that in order to protect the consumer, it is important that architects are required to continually develop professionally to a national standard.

Building Designer

<p>Scope of work (I): Standard requirements:</p>	<p>Restricted</p> <p>Architectural design and documentation of:</p> <ul style="list-style-type: none"> • Classes 1 and 10 buildings; and • Class 2-9 buildings up to maximum of three storeys; or a maximum floor area of 2000m² • Includes refurbishments of any storey of a building (including those over three storeys) <p>Limited</p> <p>Architectural design and documentation of:</p> <ul style="list-style-type: none"> • Class 1 or 10 buildings; and • Class 2 - 9 buildings of up to a maximum of two storeys in height; or a maximum floor area of 2000m² <p>Domestic</p> <ul style="list-style-type: none"> • Architectural design and documentation of Class 1 or 10 buildings (no restrictions on size or height for those classes)
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The reference to ‘architectural design’ should to be altered to ‘building design’ in all instances outlined under the scope of work above – this creates public confusion as to the distinction between architects and building designers. In the interest of consumer protection, The Board of Architects of Tasmania outlines guidelines on the use of terms on their website [here](#).

<p>Any Explanatory Notes on understanding the scope of work</p>	<ul style="list-style-type: none"> • Responsibility for all aspects of the design of building or structure within the Scope of Work. • The calculation of the maximum building size of 2000m² includes the existing structure and the proposed additions or alteration (e.g. if a building is already larger than 2000m², only an architect may perform new design work for that building) <p>Projects may include:</p> <ul style="list-style-type: none"> • engineering design work (of structures or their components) but only if acting within their area of competence; or • building services design, including plumbing or hydraulic work, but only if acting within their area of competence.
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Under the proposed wording, a building designer could theoretically design a hospital as a deemed-to-comply solution, providing it is under 2000m². This is concerning as it does not provide adequate consumer protection and presents potential risk. We consider this class of building to be of a high complexity which requires an appropriate level of training and experience, and we believe the wording proposed is inconsistent with this.

<p>Scope of work (1): Standard requirements:</p>	<p>Restricted</p> <p>Architectural design and documentation of:</p> <ul style="list-style-type: none"> • Classes 1 and 10 buildings; and • Class 2-9 buildings up to maximum of three storeys; or a maximum floor area of 2000m² • Includes refurbishments of any storey of a building (including those over three storeys) <p>Limited</p> <p>Architectural design and documentation of:</p> <ul style="list-style-type: none"> • Class 1 or 10 buildings; and • Class 2 - 9 buildings of up to a maximum of two storeys in height; or a maximum floor area of 2000m² <p>Domestic</p> <ul style="list-style-type: none"> • Architectural design and documentation of Class 1 or 10 buildings (no restrictions on size or height for those classes)
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<p>Scope of work (2):</p> <p>Any circumstances where work on a larger/ higher building (e.g. high rise) may be permitted that is outside the standard Scope of Work</p>	<p>Design of “refurbishments” (Including shop/ office fit outs) in commercial buildings of a larger size that 2000m² (only if Determined as a type of Low Risk Work).</p> <p>“Refurbishment” means [see this term in the definition section]</p>
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Clarification is needed in regard to ‘Scope of work (1) ... refurbishment of any storey of a building’, which makes reference to all classes of building, and is further referenced under ‘Scope of work (2)’ as ‘Low Risk’ works, which leads to confusion. Clarification, definition and restrictions need to be added regarding the design of Class 1 and 10 buildings. In addition, there is no restriction in terms of size or height of buildings over 3 stories in relation to the refurbishment of existing buildings.

Renovations to existing buildings should require the same level of restrictions as new buildings because we do not consider the level of complexity to be any lesser when working with an existing building.

<p>Qualifications (all new applicants)</p>	<p>Restricted</p> <ul style="list-style-type: none"> • Associate Degree of Building Design (CC01 – Qld) • Graduate Diploma of Building Design (AQF 8); or • Graduate Certificate in Building Design (AQF 8); or • Advanced Diploma in Building Design (AQF 6).
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	<p>Limited</p> <ul style="list-style-type: none"> • Diploma in Building Design (AQF 5) plus any additional skill sets as Determined by the Administrator are required for this class <p>Domestic</p> <ul style="list-style-type: none"> • Relevant skill sets as determined by the Administrator including units derived the Diploma in Building Design (AQF 5).
Experience (all new applicants)	<p>Restricted</p> <ul style="list-style-type: none"> • Three years experience in building design within the scope of work for this class <p>Limited</p> <ul style="list-style-type: none"> • Two years experience in building design within the scope of work for this class <p>Domestic</p> <ul style="list-style-type: none"> • Two years experience in building design within the scope of work for this class

There is no provision to test the competencies obtained in the 2-year building design course or what experience post qualification is required. The reference to qualifications should refer to the national qualifications competencies for building designers – [Accreditation for Building Designers Competency Standards](#).

For an architect to be registered under the Architects Act, the applicant is required to (as prescribed by the [Board of Architects of Tasmania](#)):

- *complete an accredited course which needs to address certain competencies in the [National Standard of Competency for Architects](#),*
- *also undertake and document in a log book a minimum of two years practical experience (3,300 hours) across 15 competencies and prepare a statement of practical experience, and*
- *pass the Architectural Practice Examination which is in three parts - Part 1 to review the log book and a statement of practical experience, Part 2 a written examination and Part 3 an interview by two experienced architect to assess the competence of the applicant.*

The qualifications for the restricted category of building designer after two years of study is questionable as the TAFE course electives do not need to relate to an area of expertise. In addition, the course structure and makeup is determined by the administrator who can vary this to suit current thinking.

Engineer

Scope of work (I): Standard requirements:	<p>Civil</p> <p>Unrestricted in the field of civil engineering design. Includes building solutions (Deemed-to-Satisfy or Performance Solutions) for any</p>
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	<p>engineering that fall within the individual's area of competence. Civil engineering may include:</p> <ul style="list-style-type: none"> • civil • structural • geotechnical • environmental engineering <p>Building Services</p> <p>Unrestricted in the field of building services design. Includes building solutions (Deemed-to-Satisfy or Performance Solutions) for any engineering designs that fall within the individual's area of competence. Building services in buildings may include:</p> <ul style="list-style-type: none"> • mechanical building services • hydraulic building services • electrical building services • fire safety systems • building acoustics • energy management. <p>Fire Safety</p> <p>Unrestricted in the field of fire safety engineering. Includes building solutions (Deemed-to-Satisfy Solutions or Performance Solutions) for any fire safety engineering designs that fall within the individual's area of competence.</p> <p>Fire safety Engineering is the application of engineering principles, rules and expert judgement based on a scientific appreciation of fire and its effects, and of the reaction and behaviour of people in the event of fire in order to:</p> <ul style="list-style-type: none"> • save life, protect property and preserve the environment and heritage from destructive fire; • quantify the hazards and risk of fire and its effects; • mitigate fire damage by proper design, construction, arrangement and use of buildings, materials, structures, industrial processes and transportation systems; • evaluate analytically the optimum protective and preventive measures, including design, installation and maintenance of active and passive fire and life safety systems, necessary to limit, within prescribed levels, the consequences of fire.
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It is concerning that the 'Civil' sub-class includes civil, structural, geotechnical and environmental engineering. These are very different areas of engineering, and the definition around terminology and education is needed.

Building Surveyor

<p>Explanatory Notes on understanding this Scope of work</p>	<ol style="list-style-type: none"> 1. For new work on an existing building, calculation of the maximum floor area is by addition of the existing building's floor area with any new work that will increase that area. 2. Statutory functions of a building surveyor under the Building Act include: <ul style="list-style-type: none"> • Assessment of designs and associated documentation for likely compliance with the Act • Granting authorisations to commence work • Inspection of buildings, building work or demolition work, or temporary structures • Certification of buildings, building work and demolition work or temporary structures • Issuing Occupancy Permits • Assessing requirements for Essential Building Services and creation of Maintenance Schedules • Assessing requirements for work associated with building work, including of protection work. • Liaison with permit authorities, reporting authorities and function control authorities as part of their functions • Compliance and enforcement functions
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The role of the building surveyor requires more clarification and definition, particularly regarding what the building surveyor is inspecting. For example, in many fee submissions, building surveyors remove structural inspections from their fees. This causes confusion as to who takes on the responsibility of the inspection, as engineers also exclude this from their fee submission. The Determination needs to clearly state what inspections the building surveyors are to provide and clearly define the type of inspection they are to undertake (ie, framing, is this structural or non-structural?).

Building Surveyor

<p>Minimum qualifications completed (all new applicants)</p>	<p>Note 1: the application of the following minimum qualification clause is mandatory from 1 January 2019.</p> <ol style="list-style-type: none"> 1. Certificate IV in Government Investigations (Regulatory Compliance); or 2. Certificate IV in Government (Statutory Compliance); or 3. A qualification equivalent to the minimum qualification in (1) or (2) above, including any of the following: - <ul style="list-style-type: none"> ○ Planning qualifications
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	<ul style="list-style-type: none"> ▪ Certificate IV in Local Government (Planning) ▪ Diploma of Local Government (Planning) ▪ Graduate Diploma of Planning <ul style="list-style-type: none"> ○ Building surveying qualifications <ul style="list-style-type: none"> ▪ Advanced Diploma of Building Surveying ▪ Graduate Diploma of Building Surveying ▪ Diploma of Building Surveying ▪ Associate Diploma of Building Surveying ▪ Are, or have been, accredited or licensed in Tasmania as a Building Surveyor or a Building Surveyor Limited ▪ Accreditation by the AIBS under their accreditation scheme as a Building Surveyor, Building Surveyor Limited; or Assistant Building Surveyor ○ Local government qualifications <ul style="list-style-type: none"> ▪ Certificate IV in Local Government (Regulatory Services) ▪ Graduate Certificate in Local Government Management ▪ Diploma in in Local Government Management ○ Has been appointed by the council General Manager as an EHO and has performed that role for at least 1 year; or ○ Is no longer appointed but has previously performed the statutory EHO role for a council for at least 1 year; or ○ Holds qualifications as approved by Director of Health to be appointed by a General Manager as an EHO, and has worked for a council in an allied environmental health or plumbing inspection role for at least two years. ○ A bachelor degree or a graduate diploma in: <ul style="list-style-type: none"> ▪ Law, public administration or similar disciplines. <p>Note 2: the Administrator has a discretion to accept an application from a person appointed by a council general manager under s.24, who does not hold one the minimum qualifications specified in (1) or (2) above, but who has a mix of qualifications and experience that together are deemed equivalent skills sets.</p>
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We query why it is not appropriate to have an architectural qualification and be accepted in this role.

Part 7: Building Services Providers that are a Licensed Entity

7.2 Entity licence is optional

Nothing in the Act or this Determination requires that an organisation contracting for, or performing building services work, must apply for or hold an entity licence if:

1. a natural person, associated with the organisation, has applied for and been granted a building services licence under s.37B of the Act, to be the responsible builder for that work; or
2. transitional provisions of the Act or its regulations apply to an existing licence, and do not require an entity licence to be applied for or held; or
3. section 22A(2) of the Act provides that the organisation is exempt from being required to hold an entity licence.

Regarding consumer protection, the licencing of an entity should be mandatory as per other allied professionals. An entity should be linked to a licenced person, as an extension to the entity licence, with no effect on the overall licencing cost. In the instance that circumstances change in relation to the licenced person or the licenced entity, CBOS should be notified.

Under 7.2.1, 'builder' should be amended to 'building service provider'.

Part 8: Continuing Professional Development of building services providers.

8.2 Minimum CPD requirement of licensees

The minimum requirements of licensees are set out in the table below. Except for the class of Building Inspector, all classes or sub-classes of a particular category of licence have the same CPD requirements:

Category of building services provider	Classes of building services provider	Required CPD points per year:
Building Surveyor	Open	30
	Limited	
	Building Inspector	15
Permit Authority	-	12

Category of building services provider	Classes of building services provider	Required CPD points per year:
Builder	General Construction Fire Protection Services Demolisher	12
Architect	-	20
Building Designer	-	20
Engineer	Civil Building Services Fire Safety	30
Building Services Designer	Mechanical Electrical Hydraulic Fire Protection	20

As previously stated, clarification is needed regarding CPD points and requirements. The Institute suggests that as registered architects practicing in Tasmania are expected to comply with the AACA/RAIA Joint Policy on Continuing Professional Development (CPD), as set out by the Board of Architects of Tasmania (BoFA), the requirements for architects should be consistent with this policy. The policy can be accessed [here](#), and the CPD requirements as outlined by the BoFA can be accessed [here](#). This policy is more rigorous than the CPD requirements outlined in this document and we believe that in order to protect the consumer, it is important that architects are required to continually develop professionally to a national standard.

It should be noted that there are two 8.2 clauses.

8.6 CPD requirements for multiple licence categories.

Where a building services provider is licensed in multiple licence categories:

- CPD activities relevant to one licence category may be counted towards any other relevant category; and
- the total number of CPD points necessary to be accrued by a licensee in a year shall be capped after they attain the minimum for the category with the highest CPD points requirement;

Explanatory Example:

A person licensed as a builder (minimum of 12 CPD points) and as a building designer (20 CPD points) only needs to achieve 20 CPD points per year (and not a total of 32). However at least some of those 20 points should specifically be relevant to the work of designers.

While an individual may be licenced under more than one category, they should be required to complete CPD relevant and appropriate to each licence category as one type of CPD offering is not necessarily relevant to the competencies required under both licences. This reinforces the need for CPD requirements to be further defined for each licence category. Counting CPD across multiple licencing categories does not provide adequate consumer protection.

Part I I: Building Services Providers - Code of Practice 2019

Section I: Application of Code of Practice

1.3 Application of complementary industry codes of practice, conduct or ethics

In addition to a Code of Practice made under the Act, the Administrator may also use relevant industry Codes of Practice or Codes of Conduct to assist in measuring the conduct of a licence holder.

The following industry Codes of Practice, as varied from time to time, may be used in this way:

- Master Builders Association of Tasmania Inc. Code of Ethics
- Housing Industry Association Ltd National Code of Ethics
- Australian Institute of Building Code of Ethics
- Australian Institute of Architects' Code of Conduct
- Building Designers Association of Australia Code of Ethics
- Engineers Australia Code of Ethics
- Australian Institute of Building Surveyors Professional Practice Policy
- The Australian Procurement and Construction Council National Code of Practice
- Code for the Tendering and Performance of Building Work 2016, published by the Australian Building and Construction Commission (ABCC).

The Australian Institute of Architects has jointly prepared the following document, 'Architects' Model Statutory Code of Professional Standards and Conduct' with the AACA. This document is referenced by the Board of Architects of Tasmania, as a guide to the conduct a consumer can expect from an architect, and the name of this document should be clarified. Access to this document can be found [here](#).

2. Code of Practice

Additional duties of licensed designers

1. Ensure that all aspects of design are adequately documented including reasons for design decisions

Architects and building designers make hundreds, if not thousands, of decisions that affect the design of a building throughout the life of the project. This provision would make the documentation overly extensive and onerous. The Institute would like clarification and suggests the deletion of this clause.

2. Ensure that where performance solutions are developed as a building or a plumbing solution, they will comply with relevant National Construction Code performance requirements and they may be verified against those requirements
3. Ensure building owners are adequately informed of the adoption of performance solutions in a design prior to an application for a certificate of likely compliance.

This is automatically covered by a Safety in Design report that architects are required to produce, of which the owner is one of the signatories. This ensures the client is aware of anything that is not standard in the design and build process.

Additional points – not addressed elsewhere in the Determination:

- The Institute accepts that these changes outlined in the Determination apply to dealing with new applicants.
- Generally, the qualifications specified in the changes would not necessarily provide the graduate with the necessary competencies to undertake the scope of work.
- The Institute questions where project managers fit into the licencing system. Invariably, they influence design outcomes, product selection and in some instances act in the position of administering the project and take on responsibility and risk. Project management is a recognised degree, and as such, the Institute suggests that project managers need to become licenced providers. They should be required to demonstrate appropriate competencies to maintain their licence, show evidence of completion of an accredited qualification course, and complete relevant CPD requirements to ensure consumer protection.

We look forward to being involved in further consultation regarding these changes to the Building Services Providers Licensing Determination. If you'd like clarification of any of these issues or we can be of any further assistance, please don't hesitate to contact us.

Kind regards,



Shamus Mulcahy RAIA

President, Tasmanian Chapter,
Australian Institute of Architects



Jennifer Nichols

Executive Director, Tasmanian Chapter
Australian Institute of Architects