



Australian
Institute of
Architects

NSW

ABN 72 000 023 012

The Royal Australian Institute of Architects
trading as Australian Institute of Architects

NSW Chapter
Tusculum
3 Manning Street
Potts Point NSW 2011
t. 02 9246 4055
e. nsw@architecture.com.au

Monday 20th June 2022

Mr Chris Lamont

NSW Small Business Commissioner

PO Box W275

Parramatta NSW 2150

Response to:

NSW Treasury Infrastructure Advisory Standard Commercial Framework

On behalf of:

Australian Institute of Architects NSW Chapter

Dear Commissioner Lamont

The Australian Institute of Architects (the Institute) seeks your assistance, on behalf of our members, on an urgent matter of great concern to many of the small businesses which make up the practice of architecture in NSW.

The Institute is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 13,000 members across Australia and overseas.

It has been brought to the Institute's attention by members that the NSW Treasury is currently seeking to cap rates for architectural services for all NSW government contracts using a benchmark rate which we believe is not representative of the current market, and which is not based on fair and robust data. Consequently, the capped rates being



proposed are, we understand, below the cost rates of many practices. This would leave these practices unable to continue government work, a sector which, for some practices is a core revenue source. Needless to say, this could mean a number of practices would be unsustainable should this government policy proceed.

In an effort to resolve this issue, we recently met with members of the NSW Treasury Infrastructure Advisory Standard Commercial Framework project team who described to us the work currently underway to streamline government procurement. We were then asked to provide a list of questions to be answered at our follow-up meeting with the team. Unfortunately, at this subsequent meeting our questions were not answered.

While we understand the intent of the work being done, our recent discussions have not allayed our concerns regarding the transparency and fairness of the process and we have found the responses provided to date have not been adequate.

Specifically, we still maintain the following:

1. While capped rates may be justified in some industries, the architectural profession forms part of a complex, multi-faceted service industry which is competitive, and consequently, not known for large profit margins. There is concern regulating pricing, particularly with below-market rates will manipulate the market and lead to unintended outcomes. The streamlining sought by government could be readily achieved through competitive tendering and the standardisation of contractual terms rather than the capping of rates.
2. Without transparency regarding the number of architectural practices whose data culminated in the benchmark for capped rates, we can have no certainty this benchmark is robust and fair. The scope of experience, size and composition of the practices is critical and providing this information (without any identifying information) will provide evidence that the collection of data has been rigorous and fair.
3. A considerable proportion of the rates data from practices was collected at a time when unprecedented market conditions were at play, such as Covid-19. Additionally, we are aware some of the rates data was from contracts dating back to as early as five or more years ago (given the length of some of the contracts in place). We are therefore concerned that the proposed capped rates are unrepresentative of current market rates and should be revised to reflect more current data.
4. Practices have been asked to declare compliance with the capped rates, while the terms and conditions of the contracts these rates will be applicable to have not been provided. We believe this is unreasonable, and the terms and conditions should be available in concurrence with the commercial framework project. This will ensure



Australian
Institute of
Architects

NSW

ABN 72 000 023 012

The Royal Australian Institute of Architects
trading as Australian Institute of Architects

NSW Chapter
Tusculum
3 Manning Street
Potts Point NSW 2011
t. 02 9246 4055
e. nsw@architecture.com.au

proponents can fully understand the implications of compliance with capped rates for their business.

5. We are yet to fully comprehend the justification for the discounts to government being proposed in this project, particularly for secondment. While we acknowledge some of the risk and management of practitioners will fall to the government in the case of secondment, for example, practitioners remain staff members of their architectural practice and the associated costs and risks to the business do not change. Hence, it will likely not be feasible for most practices to provide secondment services should they be at a rate 10% lower than the already below-market capped rates.

6. Architecturally designed government projects deliver some of the most important public spaces in NSW. These spaces rely on the competitive market to deliver quality architectural outcomes. Should the rates for government projects be far lower than in the private sector, outcomes risk being compromised. Additionally, for many of the most experienced, national firms, government projects will be more feasible interstate. Given the current skills shortage, this could leave NSW vulnerable to facing difficulty securing architects with the experience required to deliver large projects.

We request a response to the concerns we have raised at your earliest convenience, and we are keen to discuss with you alternate ways of securing streamlined government procurement, while ensuring the people of NSW have continued access to quality architectural outcomes.

Yours sincerely

Joanna McAndrew
State Manager, NSW

Australian Institute of Architects

Tusculum, 3 Manning Street
Potts Point, NSW 2011

d: (02) 9246 4055

We respectfully acknowledge the Traditional Custodians of the lands on which we work and pay respect to their Elders past, present and emerging.