

LOCAL GOVERNMENT REFORMS



Department of Local Government, Sport and Cultural Industries

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Western Australian Chapter



Association of Consulting Architects
The Business of Architecture



Australian
Institute of
Architects

SUBMISSION BY

This submission is jointly made by the Australian Institute of Architects, WA Chapter, and the Association of Consulting Architects.

The Australian Institute of Architects (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.

The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture. The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

The Association of Consulting Architects (ACA) leads the discussion on business matters in architecture in Australia. The association is a registered employer body under the Fair Work Commission, representing architectural employers in industrial matters, including workplace conditions and Award negotiations. In addition, the association has a responsibility to positively influence practice management in architecture and to engage in the wider industry and the “business of architecture” more broadly.

The ACA helps architectural firms navigate the changing world of practice by providing regular advice and information on business and employment matters, by promoting awareness of and discussion about business issues, and by advocating for better business practices and legislative frameworks.

Through this leadership, support and advocacy, the ACA helps to ensure the long-term health and viability of the profession, and thereby supports the important contribution that architecture makes to our cities, environments, communities and cultures.

PURPOSE

- This submission is made by the Australian Institute of Architects (the Institute) and the Association of Consulting Architects (ACA) in response to *Local Government Reform* published by the Department of Local Government, Sport and Cultural Industries (DLGSC).
- At the time of this submission:
 - ▶ The Institute National President is Tony Giannone FRAIA and the WA Chapter President is Sandy Anghie RAIA. The A/Chief Executive Officer is Barry Whitmore.
 - ▶ The ACA National President is John Held and the WA President is Kukame McPierzie. The Chief Executive Officer is Angelina Pillai.

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COVER PHOTO

The Australian Institute of Architects' recipient of 2021 George Temple Poole Award, the John Septimus Rose Award for Urban Design and the Jeffrey Howlett Award for Public Architecture. WA Museum Boola Bardip. Hassell + OMA.

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1 INTRODUCTION

The Australian Institute of Architects (the Institute) and the Association of Consulting Architects (ACA) are the peak bodies for the architectural profession in Australia.

Architects are a key component of Australia's \$100 billion built environment sector and there are around 13,500 architectural businesses in Australia with around 40,000 employees. Approximately 25,000 people in the labour force hold architectural qualifications (Bachelor degree or higher) and architectural services in Australia in 2017-18 had revenue of \$6.1 billion and generated \$1.1 billion of profit.¹

Australian architects have a worldwide reputation for creative and innovative design leadership and Australia is known for producing contemporary and breakthrough architecture. We have a well-recognised, high quality and liveable built environment. To maintain this into the future and support our burgeoning population in both urban and regional centres, we must create buildings and public spaces that are environmentally, economically and socially sustainable and culturally rich.

The Institute and the ACA welcome the opportunity to provide comment on the consultation for the *Local Government Reforms* with a focus on impacts of processes where architects are engaged and on the built environment more broadly.

2 OVERVIEW

The proposed reforms and general aims of achieving greater consistency, transparency, rigour, and good processes across local authorities in Western Australia are supported in principle. We appreciate the jurisdictional scope of the *Local Government Reforms* and appreciate, from architectural profession interface with local governments, the delineation with planning policy and building regulation. We encourage the Department to consult across state agencies to align process and [?] objectives, where possible.

The Institute and the ACA commend the recognition of First Nations people within the proposed reforms. However, recognition alone risks having minimal impact without the appropriate frameworks for local authorities to create policies, guidelines for engagement and increase participation within their municipalities. Setting out objectives and aims, like those outlined in the *Foundations for a Stronger Tomorrow – State Infrastructure Strategy*², will provide local authorities with guides on setting aims and frameworks for implementation.

¹ Industry Profile: Architectural Services in Australia, IBISWorld April 2019

² The Institute's submission to the draft WA Infrastructure Strategy can be viewed:

https://www.architecture.com.au/wp-content/uploads/Aust_Inst_Architects_Submission_to_IWA_Draft_Infrastructure_Strategy_FINAL.pdf

The Institute, alongside its Climate Action and Sustainability Taskforce (CAST), advocates for a zero-carbon construction industry by 2030, as our built environment accounts for 39% of all carbon emissions globally, with operational emissions accounting for 28%³. Members are actively committing to Carbon Neutral practices⁴ and the Institute has also embarked on its own “Carbon Neutral” journey. The Institute has called on the Australian Government to establish a national plan towards zero carbon buildings by 2030 that can be supported and led where appropriate by state and local government.

Climate change is one of the most pressing challenges we face today, and hundreds of practices and practitioners have committed to making change at a local level by becoming signatories to Architects Declare⁵. The Institute and the ACA aim to support this important response to the climate crisis through creating awareness and promoting the benefits of positive climate action.

The proposed reforms are silent with regards to the State Government’s policy for net zero emissions or any other climate action direction. Local Governments are often asset owners and have a broader social responsibility to lead by example in the communities they represent. There are many policies and initiatives that can be undertaken, beyond those embedded in planning and building regulations, to both minimise operational carbon emissions and incentivise similar considerations from their residents. Please refer to recommendations under ‘Detailed Response’ Themes 2, 5 and 6.

The Institute and the ACA have identified procurement of architectural services as a key policy priority. The Institute has undertaken research to investigate best practice Expression of Interest (EOI) and Request for Tender (RFT) methods in public sector and educational institutions that commission architectural services, which has enabled the development of a set of Guidelines for EOI and RFT and, subsequently, four new templates for Clients and Architects⁶. We are engaging with government at all levels and encourage members to share the guidelines with potential clients so that together we can promote better procurement practices for all. Please refer to recommendations under ‘Detailed Response’ Themes 1 and 5.

³ WorldGBC (2019). New report: the building and construction sector can reach net zero carbon emissions by 2050. Source: <https://www.worldgbc.org/news-media/WorldGBC-embodied-carbon-report-published>

⁴ <https://www.architecture.com.au/about/carbonneutral>

⁵ <https://au.architectsdeclare.com/>

⁶ Refer to Procurement Resources available: https://www.architecture.com.au/archives/policy_campaigns/procurement

3 DETAILED RESPONSE

Theme 1: Early Intervention, Effective Regulation and Stronger Penalties

The Institute and the ACA support, wherever possible, consistency of processes and regulation across all local government authorities.

Item 1.2: Local Government Monitors

The establishment of a panel of Local Government Monitors that assist local governments in resolving problems is supported. Further, the identification of Monitors as qualified specialists is supported. We recommend the further articulation of 'procurement experts' to include expertise in procurement of building works and construction contract experts.

The term 'procurement' is broadly used in local government, ranging in scope from the procurement of everything from stationery (goods) to consulting services (services) to the construction of buildings (goods and services). There is, however, significant distinction in complexity and technical expertise required to procure the range of examples outlined.

The procurement role, in relation to building contracts, is not simply about probity; it is not limited to complying with the *Local Government Act*, local government procurement guidelines and/or the Code of Tendering. Good procurement practice, when it comes to building contracts, involves a broad and thorough understanding of the mechanisms of building contracts (e.g. AS 4000 – 1997), and how these will interface with the project requirements of the Principal. This will then inform the communication to tenderers that is documented into an RFT/Tender package. The necessary role requires training at a tertiary level in a building professional consulting discipline, such as architecture, engineering, project management, construction law or building (potentially) along with appropriate experience in the tendering, construction and post-construction phase of projects phase of projects. The value of engaging professionals with relevant education, skills, experience, ongoing professional development, regulation, and expertise for building project is effective risk minimization and improved consumer protection.

Item 1.5: Rapid Red Card Resolutions

Consistent standing orders that govern how meetings are run, particularly in relation to management of disruptive behaviour, are supported. Having a consistent approach to management of disruptive or unacceptable behaviour is necessary to ensure the safety and wellbeing of staff and it is probable that such reform will positively impact on staff retention and recruitment.

Theme 2: Reducing Red Tape, Increasing Consistency and Simplicity

We support consistency, transparency, and accessibility across local authority processes, specifically with regard to approvals processes and building procurement. We recommend that the focus of reforms with these aims should be on flexibility and qualitative community/design outcomes (i.e., performance focus as opposed to process focused).

Item 2.1: Resource Sharing

The opportunity for local governments to resource share, in aiming to reduce costs to rate payers and ensure required skill set, is supported. Our collective members view this reform as an opportunity for many local governments to appoint City Architects, similarly to the City of Perth. City Architects will be able to offer local governments and proponents specialist advice across departments of planning, building and procurement.

Item 2.2: Standardisation of Crossovers

Consistency of definition and approval process for crossovers is supported in principle.

We recommend engagement with the Department of Planning, Lands and Heritage to co-review the definitions and provide opportunities within the processes for shared crossovers, particularly in medium density developments⁷.

Item 2.3: Introduce Innovation Provisions

The introduction of Innovation Provisions is supported in principle.

With reference to short term trials and pilot projects, we interpret that these projects would still need to comply with planning and building policies / regulations. We view potential project focus, under these provisions, to include activation of dead urban zones (such as laneways), master planning, community parks, pop-up parks and other social capital. There is a lack of articulation in the consultation guide as to whether these provisions could include further built environment innovation, such as ‘zero carbon social housing’ exemplar projects.

With regard to urgent responses to emergencies, we suggest that this could involve responses to the Climate Emergency and thus include built environment innovation. Please refer to Themes 5 and 6 for further recommendations.

Item 2.4: Streamline Local Laws

The Institute and ACA support the proposed or amending review periods, lapsing old laws that have not been reviewed and the adoption of Model Local Laws.

Item 2.5: Simplifying Approvals for Small Business and Community Events

The Institute and ACA members support the proposed reforms to simplify approvals for small business and community events in principle with identified potential benefits. We interpret that the identified approval targets could also be subject to *Item 2.3 Innovation Provisions* for specific focus areas identified by specific local governments.

Item 2.6: Standardised Meeting Procedures, Including Public Question Time

The standardisation and consistent articulation to the public of the processes are supported in principle.

⁷ Refer Draft State Planning Policy 7.3 Residential Design Codes: Volume 1 – Low and Medium Density. A joint Institute and ACA submission can be viewed: <https://www.architecture.com.au/wp-content/uploads/RAIA-ACA-SPP7.3-Medium-Density-WA-April-2021.pdf>

Theme 3: Greater Transparency and Accountability

We support increased transparency and accountability across local authority processes, specifically with regard to approvals processes and building procurement.

Item 3.2 Recording All Votes in Council Minutes

Institute and ACA members support the proposed reforms. The reforms are viewed as improving transparency and accountability, especially as they pertain to reviewed responses to planning submissions.

Item 3.3 Clearer Guidance for Meeting Items that may be Confidential

The proposed reforms are supported. With reference to planning approvals, we note that there are not many confidential meetings that currently take place where the proponents are the beneficiary. The reforms will force decision making processes to become more transparent, and minimise decisions made on misinformation or inaccurate interpretation of documentation.

The additional flexibility for confidential items determined by the Inspector, as opposed to local authority administration, is supported. The advantage of proposed Inspectors, who are independent of local authorities, alleviates potential conflicts of interest, and ideally creates more objective decisions to be made.

The requirement of recordings of confidential meetings submitted to the DLGSC is also supported and viewed to become pertinent in instances where complaints are made.

Item 3.4 Additional Online Registers

Proposed additional online register requirements are supported in principle. Consistent with other state agencies⁸, the quantum of Contract Register disclosure should be standardised, where possible.

Theme 4: Stronger Local Democracy and Community Engagement

We support consistency and improved stakeholder / community engagement, specifically with regards to approvals processes and building procurement.

Item 4.1 Community and Stakeholder Engagement Charters

Reform implementation of consistent community and stakeholder engagement charters that embed best practice inclusive methods of engagement are supported.

The success of the Charters will be in the detail. Community engagement can be an expensive process, so it is important to clearly articulate what triggers the process. For example, amendments to Town Planning Schemes would have the highest level of community impact and thus warrant the process, while, on the other hand, projects that

⁸ Refer Western Australian Procurement Rules, Rule F5: <https://www.wa.gov.au/government/multi-step-guides/western-australian-procurement-rules/section-f-agency-obligations>

comply with planning regulations should not be required to undergo engagement processes.

The scale and engagement methodologies similarly need to be customised according to the nature of project. The process needs to be inclusive and multi-faceted to ensure diverse members of the community are engaged.

We recommend further the establishment of an Engagement Taskforce and further collaboration with the Department of Planning, Lands and Heritage, who have recently developed the Draft *Planning Engagement Toolkit for Western Australia*⁹ to ensure the Charters have been practically considered and represent best practice model.

Theme 5: Clear Roles and Responsibilities

We support articulation of roles and responsibilities across local authorities and identifying new principles in the Act. We view this reform as an opportunity to create meaningful frameworks for Local Governments to create policies and processes specifically around recognition and engagement with First Nations people, and climate change and sustainability, which are two key identified priorities of the Institute and the ACA.

Item 5.1 Introduce Principles in the Act

Firstly, as noted in the Overview, the Institute and the ACA commend the recognition of First Nations people within the proposed reforms.

The architectural profession is the first of any built environment and construction profession or practitioner class in Australia to have introduced a First Nations competency standard. This was introduced only recently in the 2021 version of the National Standard of Competency for Architects (NSCA)¹⁰. The Architects Accreditation Council of Australia developed the new First Nation competency standard in partnership with the Institute's First Nations Advisory Working Group. The Institute recommends further steps to be taken by the Western Australian Government and its Local Governments to strengthen the First Nations co-creation of successful and enduring built environment outcomes.

The theme of recognition and engagement with First Nations people warrants considerable articulation and frameworks for:

- Guidelines for engagement.
- Reference to the WA Aboriginal Procurement Policy¹¹, for local governments to improve and increase participation and growth of aboriginal business in their municipalities.

⁹ <https://consultation.dplh.wa.gov.au/strategy-and-engagement/planning-engagement-toolkit/>

¹⁰ <https://www.aaca.org.au/national-standard-of-competency-for-architects/>

¹¹ <https://www.wa.gov.au/government/publications/general-procurement-direction-202108-aboriginal-procurement-policy>

- Guidelines for integration of recognition into co-creation of meaningful policies and strategies, with particular examples including co-creation of Town Planning Schemes and stakeholder engagement Charters.

Secondly, as noted in the Overview, the Institute and the ACA recommend that the proposed reforms address the State Government's policy for net zero emissions and provide frameworks for Local Governments to create meaningful and quantifiable climate action / sustainability policies. Governments at all levels have a social responsibility to ensure better built environment outcomes and to lead by example through how their assets are managed, procured, and maintained.

The Institute has responded to the State's recently commenced process of developing sectoral emissions reduction strategies to transition the economy to net zero (SERS)¹². The Institute recommends the built environment to be specifically identified as a separate targeted industry. Some recommended focus areas stemming from architectural practice and knowledge that may also assist in shaping local government policy to reduce emission in the built environment include:

- Requirement for life cycle assessments for all new buildings at Planning Approval / Building Permit approval stage;
- Focus on zero carbon operation of buildings (in particular publicly owned assets);
- Target public assets and incentivise private development zero carbon (or low carbon) construction methodology (including waste) and materials (which connects to other incentivisation of new material industry e.g. green concrete, cross-laminated timber, and others);
- Urban design and master planning focussed on higher density urban and suburban development to reduce urban sprawl, manage the heat island effect, respond to stormwater, address transport and improve connectivity.

Further to these focus areas, other initiatives for consideration in the reforms include:

- Requirement to develop a carbon neutral plan and life cycle assessments in Asset Management Plans, and operational plans.
- Waste management ensuring that all local governments minimise landfill. Waste policies currently vary considerably across local authorities.
- Frameworks of incentives to encourage sustainable development in the respective local communities.
- Potential for Inspectors to undertake independent reviews and scorecard local authority policies to alleviate 'feel good' policies.

We support all other proposed principles outlined in the reforms, including tiering of local governments, community engagement and financial management.

¹² Refer https://www.architecture.com.au/wp-content/uploads/211217-Aust_Inst_Architects_SERS-response-letter.pdf?_zs=Hh1Jm&_zl=3Je52

Item 5.5 Local Governments May Establish Education Allowances

We support the idea of potential training for councillors to improve their performance in understanding and achieving obligations of their roles.

We identify recommended training streams as follows:

- Comprehension of design drawings and fundamentals of planning
- Sustainability training
- Cultural sensitivity training – engagement with First Nations people
- Procurement of buildings

There is the potential for the reforms to expand further to make training allowance beyond council members to members of their community, particularly with a focus on positive discrimination with training pathways into employment. Examples of such beneficial initiatives could include:

- Continuing education programs for school leavers in localities with low school completion rates
- Fellowships for awarded teachers in the area, to encourage regular meetings and sharing of knowledge and projects.
- Training of people with lived experience of homelessness into roles of community engagement officers.
- Where local governments are aged care providers, employing local unemployed into Certificate II and Certificate III level roles.

Item 5.7 Remove WALGA from the Act

This reform is supported. The current inclusion of WALGA, essentially a membership organisation¹³, is confusing as to its role and relationship to the State.

Theme 6: Improved Financial Management and Reporting

While supporting improved financial management and reporting, we highlight the importance appropriate understanding of risk in procurement and encourage further reforms to provide consistency and guidance to local governments in this area.

Themes for procurement reform consideration include:

- Procurement of design services: refer Institute Research, Guideline and Proforma Documents¹⁴.
- Procurement of building contracts, refer discussion under item 1.2.

¹³ Moreover, it is displayed in the Australian Business Register as an unincorporated entity, see: <https://www.abr.business.gov.au/ABN/View?abn=28126945127>

¹⁴ https://www.architecture.com.au/archives/policy_campaigns/procurement

- Understanding value for money, specifically with regards to consistent approach to fee setting for professional services.

Item 6.2 Simplify Strategic and Financial Planning

Specifically in reference to Asset Management Plans under this item, we support consistency, simplification, regular updates and provision of templates.

We reference discussion under theme 5 and highlight that the climate emergency needs to be viewed as a financial risk and included appropriately in Asset Management Plans. Within a broader goal of carbon neutral plans for all local government operations, carbon footprint of the asset and its operation in a life cycle assessment is a quantifiable aspect that can be measured and included within Asset Management Plans. There are currently a range of life cycle assessment measuring tools available¹⁵ to facilitate genuine attempts to measure and monitor performance, which could be referenced in guidance documents provided as part of the reforms.

Item 6.7 Building Upgrade Finance

We question the skills and capacity for local governments to provide loans and the inherent associated risks. We would recommend for local governments to partner with organisations or state level departments who have the capability and expertise in the provision of low interest loans.

Such loans would greatly improve the building stock in many districts, and we recommend the following focus improvement areas:

- Green energy fixtures
- Building sustainability / performance upgrades (both passive and active)
- Cladding upgrades, specifically to upgrade old building stock fire safety
- Accessibility and wayfinding upgrades in publicly accessible buildings to align with current Access to Premises Standards

¹⁵ Reputable LCA processes for buildings include: [Green Building Council of Australia](#), [eTool](#), [Certified Energy](#), [AusLCA](#) and others.