



## **Australian Institute of Building Submission to the *Building Professionals Amendment (Exemptions) Regulation 2012***

### **Introduction**

The Australian Institute of Building (AIB) welcomes the opportunity to respond to the *Building Professionals Amendment (Exemptions) Regulation 2012*. The AIB is keen to see more efficient and thorough regulation in the construction industry, and welcomes this review.

### **Vision**

The vision of the AIB in regards to this amendment regulation is to ensure that:

- The building sector in NSW is improved through higher educational standards and appropriate regulation; and
- The building industry is a viable and growing sector for the benefit of the state, consumers and builders.

### **The Amendment Regulation**

An Amendment Regulation has been released for exhibition that would amend the Building Professionals Regulation 2007 to:

- Limit certain existing exemptions to the conflict of interest provisions that apply to council accredited certifiers relating to a development that has a capital investment value not exceeding \$5 million: This means that for a development with a capital investment value over \$5 million, a council accredited certifier will have a conflict of interest if they issue a Part 4A or complying development certificate on behalf of the council to a council employee or the council itself.
- Introduce an exemption for council accredited certifiers if they are related to a person involved in the design or construction of an aspect of development. Council accredited certifiers will be able to issue a Part 4A or complying development certificate if related to a person involved in the design or construction of an aspect of development, if the certificate is issued on behalf of the council, to the council or to a council employee and the capital investment value of the development does not exceed \$5 million.
- Introduce savings and transitional provisions in relation to these amendments.

## AIB Recommendations

After consultation with the Building Professionals Board, AIB understands the above to mean that:

- As councils have had a traditional role of giving design advice to applicants, it is proposed that it will be legally permissible for council certifiers to give this design advice for construction projects up to the value \$5 million. However, councils would still ideally recommend an applicant seek the advice of an independent building consultant for this work too; and
- If for example, a wife works as a council certifier and her husband is a plumber, she can now certify work that he has undertaken on a project under \$5 million in value.

In effect, the above will still be conflicts of interest for projects under the value of \$5 million, but they will not be recognised as such.

The recommendations that the AIB advocates in regards to this amendment regulation are as follows:

1. The Building Professionals Board needs to ascertain how many councils in NSW are currently charging for design advice, and make it part of the amendment regulation that councils cannot charge for this advice for construction projects worth under \$5 million. If an applicant pays a council for design advice for a project worth under \$5 million, and then this advice turns out to result in building defects, the council certifier is then placed in an awkward position, and would feel pressured to sign off on the work because of the earlier paid advice from the council.
2. Regarding design advice, the amendment regulation should apply to the type of work rather than the value of the work, or ideally for the type of work *and* the value of the work. For the construction of single detached housing (and/or associated structures or work, such as a garage or pool) under \$5 million in value, this amendment regulation is appropriate. However, applicants should be paying commercial rates to registered or licensed building consultants if advice is being given for:
  - A row of town houses, apartment buildings, office buildings under \$5 million in value, or
  - A large and complex single detached house over \$5 million in value.

This would allow non-commercial “Mum and Dad” construction projects to receive council advice, without falling foul of the law as it currently stands.

3. There should be definitely no exemption for council accredited certifiers if they are related to a person involved in the design or construction of an aspect of development, regardless of the value, as this is a clear conflict of interest.

### Further Information

For further information, please contact the AIB Chief Executive Officer or Policy & Advocacy Manager on (02) 6247 7433 or [ceo@aib.or.au](mailto:ceo@aib.or.au) or [policy@aib.org.au](mailto:policy@aib.org.au)

Submission lodged 21 December 2012.

## Appendix 1

### About the AIB

Founded in 1951, the AIB is the peak body for building and construction professionals, acknowledged for its ability to bring individuals together who share a common interest in improving the standing of the building profession and their career within Australia and overseas.

The AIB is incorporated by Royal Charter and is the pre-eminent professional body for building professionals in Australia and the Asia-Pacific region.

Recognised as the accrediting body for building and construction degrees at educational institutions, the AIB has a long and proud history of supporting and servicing the building profession. For more than sixty years, the Institute has worked with the building and construction industry, government, universities and allied stakeholders to promote the building profession, support the development of university courses in building and construction whilst promoting the use of innovative building techniques and a best-practice regulatory environment.

AIB is proud of its role in promoting the exchange of information amongst individuals and accomplishes this through publications including the *Construct* magazine and the Australasian Journal of Construction Economics & Building (AJCEB).

The AIB also has an extensive continuing professional development program in Australia and overseas and facilitates the annual AIB Professional Excellence in Building Awards Program.

For further information please go to [www.aib.org.au](http://www.aib.org.au)