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National/DPW/08-CBE SAIA Comment 20080328

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Dear Mr Maroka

PROFESSIONAL COUNCILS: POLICY DOCUMENT ON THE PROPOSED AMENDMENTS OF THE STATUTORY REGULATORY FRAMEWORK OF THE BUILT ENVIRONMENT PROFESSIONS

We refer to the consultative meeting held on 18 March 2008 and your invitation to submit comments on the proposed amendments to the regulatory framework. We respectfully submit the following comments for your consideration. These comments do not deal in detail with the document discussed at the meeting but rather with overarching issues and the proposed re-structuring of the regulatory framework.

At the outset we confirm that the South African Institute of Architects (SAIA) agrees with the need for constant monitoring, review and, where warranted, changing the Built Environment Professions (BEP) practice environment and regulatory framework. This rightly should be an ongoing activity. We do however need to express the following concerns regarding the present proposals:

1 PROCESS

We are concerned at the very tight timeframes set for the development and implementation of such a critical piece of new legislation. We do not consider that the proposed timelines will allow for the necessary wide and inclusive consultation, consideration, policy development and implementation, even if found to be sound and warranted. For instance, SAIA only became aware of the proposals through a third party and only received a formal invitation to attend the consultative workshop on Thursday, 14 March 2008 – four days before the event. This is not sufficient time for responding adequately to proposals which have such profound implications for the functioning of a critical sector of the built environment.

Before the present legislation governing the built environment professions was brought into being there was in depth and extensive consultation with all interested and affected parties. This consultation was based on deeply researched policy documents which were widely disseminated both to stakeholders and role players as well as in the public realm. We regret that this rigour appears not to have been applied to the current process.

2 BASIS OF PROPOSAL: MID-TERM REVIEW 2003

From the documentation provided it seems as if the proposed amendments to the regulations are based on the findings of the mid-term review of the Department of Public Works (DPW) which included a study entitled *The role of the built environment professions in enhancing construction industry development in South Africa*. The study and mid-term review were



commissioned in 2003 and presumably completed during that year or at latest in 2004. Although it was stated at the workshop that the proposed amendments were also informed by other studies and information, neither the mid-term review report, nor the study which formed part of the report, nor any of the other information alluded to has been made available for consideration. It should be noted that the policy document presented at the workshop contains many statements which are either misleading or not factually correct today. The architectural profession has changed structurally and transformed significantly since the mid-term report was produced.

For instance, the South African Council for the Architectural Profession (SACAP) introduced compulsory registration of architectural practitioners in 2006. This led to a threefold increase in the number of registered architectural practitioners with concomitant significant changes in the demographics of registered persons. In 2007 SACAP introduced a requirement for periodic renewal of registration for registered persons with associated compulsory continuing professional development (CPD) requirements. Since the mid-term review, all of the BEPs have participated in the development of the Construction Industry Charter and have embraced transformation in their sectors.

We submit that any draft policy which is based on a four year-old review must be questionable if not flawed and request that the issues identified in the proposal such as low levels of registration, funding of smaller councils, alignment with national policy imperatives, access to the professions, etc be reviewed in terms of the current ongoing initiatives and developments in the different councils.

It is noted that none of the professions represented at the meeting appear to have been provided with the mid-term report or the study referenced in the proposal.

3 THE RISK OF RESTRUCTURING THE BEP COUNCILS

We are deeply concerned that a hasty and possibly ill-considered restructuring of the BEP councils at this juncture in the construction environment in South Africa will pose an unacceptably high risk of dislocation of professional services; this at a time when the professions are desperately seeking to support the public sector in its infrastructural service delivery. We consider that there is a high possibility of unintended consequences occurring if the present proposal is hastily implemented and we believe that at this point stability in the BEP regulatory framework is critical to the effective delivery of professional services in the built environment.

We submit that many of the issues identified as shortcomings in the proposal can be more effectively addressed by remedial interventions within the existing framework with a much lower risk to good infrastructure service delivery.

4 PROFESSION-SPECIFIC ADMINISTRATIVE FUNCTIONS

The report also argues that certain common activities can be rationalised and that there would be great benefit in co-ordinating them; *this would be beneficial on an order of magnitude basis*. No empirical evidence was provided to show that this will be the case.

Many of the activities perceived to be of an administrative nature only, require administrative as well as qualitative and/or professionally related input and as a result we do not believe that this rationalisation and order of magnitude benefits would be achieved. We do however remain open to further motivation on this issue.

5 COMPOSITION AND FUNCTIONING OF PROPOSED SACBE

While the proposal makes general statements on the composition of the proposed council and boards, there are no specific indications of size, operational functioning, representation etc. If all the BEPs and their constituents were to have representation together with all the departments of government that have a direct interest in the built environment, such as DPW, DEAT, DME, DoL, etc it would appear that the council will be an unwieldy instrument incapable of functioning efficiently or effectively. This comment applies equally to any



secretariat which would be created to support the work of such a council.

There is no confidence that organisational restructuring of the present structures will offer any benefits as regards operational efficiencies. Indeed there is concern that such a restructuring would result in a degradation of efficient operation within the different disciplines.

6 CURRENT CBE AND SACAP INITIATIVES

It seems to us that the proposal does not take account of current CBE and other councils' initiatives in many of the areas highlighted as shortcomings in the proposal. For instance in developing the policy, cognisance needs to be given to the CBE Skills Audit which is presently reaching finality. There is also a CBE Continuing Professional Development policy being put in place. The South African Council for the Architectural Profession (SACAP) has commissioned a professional fees research study for the architectural profession which will guide future policy on the issue.

7 INTEGRATION OF RELATED BEP DISCIPLINES

In any debate on possible restructuring or amendment of the BEP regulatory framework, it is essential that consideration be given to the position of the town and regional planning profession and the land surveying profession into the framework. These are two key disciplines essential to infrastructure and superstructure delivery. We submit that these professions deserve to be integrated into the current regulatory framework and that such integration need not require a restructuring of the current framework but rather an extension of the remit of the CBE.

In conclusion, while we believe there is a case that can be made for better alignment and even for a degree of centralisation in the council structures, the necessary interventions could be made without a complete re-structuring of the legislative framework.

We trust that our comments will be viewed as constructive and will be given due consideration. We urge that the DPW reconsider the proposal in the light of these comments and delay implementation of any changes until a high level of confidence and consensus has been achieved amongst the professionals concerned as to the need for and effectiveness of any such change. This can only be done through wide and in-depth consultation with the affected parties.

Sincerely,

Hassan Asmal Pr Arch MIArch
PRESIDENT