

Architect legislation: a proposed amendment to address issues regarding the licensing of non-traditional corporations

Overview

Building and Energy is inviting public submissions on a proposed amendment to the *Architects Regulations 2005* (the Regulations) regarding the licensing of corporations. The focus is on ‘non-traditional corporations’ (NTCs), whose proposed architectural services are only a minor or secondary component of the business of these corporations (while their core business may be building, drafting, or various multi-disciplinary services). The Report of the Statutory Review of the Architects Act 2004 (the Statutory Review), published in December 2018, looked into the concerns of the Architects Board of Western Australia (the Board) in licensing NTCs.

The primary focus of the Board under the *Architects Act 2004* (the Act) is to protect consumers of architectural and related services in Western Australia (WA). The Board is required to ensure that only properly qualified competent persons are identified as architects and to regulate the practice of architecture in WA. As an integral part of this process, before licensing a corporation, the Board must ensure (among other things) that all architectural work to be done by the corporation is to be done under “the direct control and supervision” of a registered person who is an officer or employee of the corporation and that the means by which this is done are acceptable to the Board (see regulation 15 of the Regulations).

These important legislative requirements (intended to protect consumers but lacking in specificity) are difficult to apply to licensing applications by NTCs whose architectural services (unlike those of traditional licensed corporations) are not the primary business of the corporation. Whilst only a small number of corporations applying to be licensed by the Board fall into the NTC category, the Board must currently seek to unravel the structure and inner workings of each NTC on an individual basis to a sufficient extent (but without much legislative guidance) to satisfy the requirements of regulation 15 of the Regulations. Otherwise, consumers of an NTC (if it were to be licensed without the necessary rigour) may believe that they are receiving an architectural service from this NTC when they are actually receiving one of the other services offered by the NTC that is **not** regulated by the Board. This raises potential risks for consumers as, once an NTC is licensed and listed on the Register, a consumer is likely to assume (perhaps incorrectly) that all of the services being provided to them by a registered NTC consist of architectural work.

The Board considers that the legislation in its current form provides insufficient guidance for the proper consideration of licensing applications from NTCs. More detail is required in the legislation concerning the necessary structure of a licensed corporation (especially given the undefined terms of *architectural work* and *direct*

control and supervision in regulation 15 of the Regulations) to assist the Board in assessing the necessary extent and means of supervision and control of architectural services that an NTC must provide to be licensed under the Act. This will also support the Board's efforts in properly regulating an NTC, once registered (in circumstances where only some of the services provided by this corporation are subject to the protections afforded by the Act).

Recommendation 23 from the Statutory Review resolved that further consultation is needed on the issue of licensing architectural corporations, to address the various problems identified.

You can also read more about this issue on pages 60 – 63 of the Statutory Review via this link: <https://www.wa.gov.au/government/publications/review-of-the-architects-act-2004>

The proposed amendment

As part of the State Government's implementation of the Statutory Review recommendations, further consideration has been given to addressing the issues around NTCs. Building and Energy have researched legislation from other jurisdictions to better understand how corporations are being regulated in other parts of the country.

In consultation with the Board, it is now proposed to add the following new requirements for corporations to be able to be licenced under section 31(b) of the Act and regulation 15 of the Regulations:

(1) in the case of a corporation with a governing body consisting of an even number of members—at least half of the members of the governing body needs to be registered architects.

(2) in any other case—a majority of the members of the governing body of the body corporate need to be registered architects.

The requirement is modelled on section 33 of the South Australian *Architectural Practice Act 2009*.

This amendment will address the licensing issues regarding NTCs and strengthen consumer protection, by ensuring that only corporations whose architectural services are a primary part of their business can be licensed by the Board.

Consultation

Your feedback is sought on whether you support the proposed change. Please elaborate on any implications (positive or negative) that this change may raise.

Subject to this consultation, the legislative amendment may be progressed during 2025/2026, together with other recommendations included in the Statutory Review that have yet to be implemented.

Submissions close: 5pm, Friday 13 June 2025.

Please use the feedback form below to submit your comments to:
architects.consultation@demirs.wa.gov.au

Section 1: Submission details

Full name:	Jonathan Speer
Organisation and position (if applicable):	Australian Institute of Architects – WA Executive Director
Address	33 Broadway Nedlands
Email:	jonathan.speer@architecture.com.au
Telephone:	0451 048 200

Please tick the correct box to describe yourself:

- A registered architect
- A licensed corporation
- A consumer
- Other: Peak Body

Section 2: Feedback

1. Do you support the proposed amendment, modelled on the South Australian legislation, to address the issues identified around non-traditional corporations? Please provide your reasons.

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation representing over 14,500 members across Australia and overseas. More than 1,300 members are based in Western Australia and are supported by the WA Chapter.

The Institute supports the implementation of the proposed amendment.

In line with Proposal 23 of the Statutory Review of the Architects Act 2004, Part 2.20 Licensing of non-traditional corporations (NTCs), the Institute supports Building and Energy's proposal, in consultation with the Architects Board of Western Australia (Board), to remove ambiguity around non-traditional corporations licensed under section 31(b) of the Act and regulation 15 of the Regulations.

The Institute believes the proposed amendment, modelled on South Australian legislation, will be:

- Less confusing for consumers, providing greater protection around the use of the title "architect"
- Provide greater clarity for the Board in licensing NTCs under the Act
- Support the integrity of the profession, ensuring that all architectural work done by the corporation is under the direct control and supervision of a registered person

2. General comments

The Institute commends the Board and Building and Energy for their efforts in safeguarding Western Australian consumers.

These amendments will provide greater clarity and assurance to the community, ensuring that consumers can trust that architectural services are delivered by qualified professionals who are certified through the Board's rigorous registration process.