



# Regulatory Impact Statement

## Draft Architects Regulation 2017

June 2017



Better Regulation Policy  
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## Executive Summary

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The current Architects Regulation 2012 (the current Regulation) came into force on 1 September 2012 and is due for automatic repeal on 1 September 2017.

The draft Architects Regulation 2017 (the draft Regulation) has been prepared to replace the current Regulation on 1 September 2017.

The draft Regulation aims to maintain confidence in the professionalism of the architecture industry in NSW and the necessary consumer protections. The draft Regulation also aims to reflect the economic, social and environmental context in which it operates. The key changes in the draft Regulation include:

- Extending recognition of architectural qualifications for registration as an architect to all recognised universities in NSW.
- Allowing the Board to publicly publish the name, registration number, registration status and practicing status of registered architects as well as any other relevant details on an opt-in basis.
- Replacing paper-based processes, such as advertising elections in newspapers, with electronic or online processes, such as advertising on the Board's website or email notifications.
- Adding options to undertake the election of members to the Board via electronic ballot processes such as email or an online website portal, in addition to the current postal ballot process.
- Modernising the Code by removing out-dated and unnecessary clauses while maintaining a high industry standard and consumer protection.

This Regulatory Impact Statement (RIS) has been prepared as part of the making of the draft Regulation and:

- sets out an analysis of the financial, economic, social, and environmental impacts of the draft Regulation;
- identifies and assesses direct and indirect costs and benefits to ensure that the draft Regulation is necessary, appropriate and proportionate to risk;
- demonstrates, when compared to alternative options, that it provides the greatest net benefit or the least net cost to the community; and
- demonstrates that any regulatory burden or impact on government, industry or the community is justified.

This RIS should be read together with the draft Regulation.

Background information on the architecture industry and the applicable laws are summarised in Appendix 1.

# Consultation process

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## Making a submission

Submissions can be provided by interested organisations or individuals on any aspect of the draft Regulation or other relevant matters, whether or not it is addressed in this RIS. However, matters covered by the principal Act, the *Architects Act 2003 (NSW)* (the Act), are not the subject of this consultation process and will not be considered as part of this review.

We invite you to read this paper and provide comments in writing. Additional copies of the RIS and the draft Regulation can be downloaded from [www.haveyoursay.nsw.gov.au](http://www.haveyoursay.nsw.gov.au)

Please forward your submission to:

Email (preferred): [policy@finance.nsw.gov.au](mailto:policy@finance.nsw.gov.au)

OR

Mail: Architects Regulation 2017  
Better Regulation Policy  
NSW Department of Finance, Services and Innovation  
McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000

**The closing date for submissions is Friday 30 JUNE 2017.**

### Important note: release of submissions

All submissions will be made publicly available. If you do not want your personal details or any part of your submission published, please indicate this clearly in your submission together with reasons. Automatically generated confidentiality statements in emails are not sufficient. You should also be aware that, even if you state that you do not wish certain information to be published, there may be circumstances in which the Government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*). It is also a statutory requirement that copies of all submissions are provided to the Legislation Review Committee of Parliament.

## **Identified stakeholders**

A copy of the draft Regulation and this RIS has been provided to the following key stakeholder organisations:

- Architects Accreditation Council of Australia
- Architects Registration Board NSW
- Association of Consulting Architects
- Australian Institute of Architects (NSW Chapter)
- NSW Electoral Commission
- Office of the NSW Government Architect
- University of New South Wales
- University of Newcastle
- University of Sydney
- University of Technology, Sydney
- Western Sydney University

## **Evaluation of submissions**

Once the consultation period has closed all submissions will be considered and the draft Regulation may be amended, if necessary, to address any issues identified. If further information is required, targeted consultation may be held before the Regulation is finalised.

## **Commencement of the draft Regulation**

Once the Regulation has been finalised it will be submitted to the Governor for approval.

The final Regulation will then be published on the official NSW Government website for online publication of legislation at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) prior to commencing.

The Regulation will commence on 1 September 2017 when the current Regulation is due to be repealed.

# Objective and Rationale of the Regulation

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## Need for Government Action

Government action is necessary at this point in time as the current Regulation is due for automatic repeal on 1 September 2017 under the *Subordinate Legislation Act 1989*. The current Regulation is an important component of the regulatory framework for architects in NSW. That is, the Act cannot function as intended without a supporting Regulation in place.

## Objective

The primary objective of the Regulation is to provide the legislative support and administrative detail for the operation of the Act.

The Act seeks to achieve its objectives by providing for a statutory registration scheme for the architectural profession, restricting the use of the title “architect” to registered persons, setting out a NSW Architects Code of Professional Conduct (the Code) that architects are to comply with and provision of a consumer protection role for the Board.

The draft Regulation will support the Act and is integral to the effective operation and the achievement of its aims. The Regulation sets out qualifications for registration as an architect, provides the criteria for accreditation of courses of study for registration as an architect and prescribes the Code and what constitutes professional misconduct. The Regulation also details the particulars to be recorded in the register, provides the procedure for the election and rotation of members to the Board and deals with other miscellaneous matters. The Act requires these matters to be dealt with in a regulation.



## Options for achieving objectives

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The primary objective of the draft Regulation is to provide operational and administrative detail to support the operation of the Act. Options for achieving those objectives are:

- **Option 1: Make the draft Regulation**

The provisions of the draft Regulation will provide updated legislative support and administrative detail for the *Architects Act 2003*.

- **Option 2: Maintain the status quo**

Do not make the draft Regulation, and instead remake the Regulation to be identical to the current Regulation.

- **Option 3: Take no action**

Allow the current Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989* and do not make any replacement Regulation.

A qualitative analysis of the costs and benefits of each option has been undertaken using a multi-criteria analysis (MCA) method. This method analyses how each of the options will contribute to a set of objective criteria that judge the costs and benefits of implementing each option. The objective criteria evaluate the effectiveness of the options against the objectives of the Act and the overarching better regulation principles, in line with the NSW Government's red tape reduction program. This analysis also considers the impacts of the options on the architecture industry including the approximately 5,000 registered architects in NSW, architecture firms, educational institutions, NSW government agencies, consumers and the wider community.

# Impact assessment of options

## Assessment of Option 1 – Make the draft Regulation

This option would result in the draft Regulation being made to replace the current regulation when it lapses on 1 September 2017 under the *Subordinate Legislation Act 1989*.

The draft Regulation aims to reduce red tape and simplify regulatory processes, making the Regulation modern and fit for the digital age.

### Option 1 - Costs

It is expected the draft Regulation will reduce costs, particularly in relation to the Board's administration costs for conducting elections of architects to the Board. A summary of statistics and costs of conducting the election of architects to the Board for the last three elections is provided in Table A below.

Table A – NSW statistics and costs for advertising and conducting election of architects to the Board

Election year	Number of registered architects	Number of registered architects who voted in the election	Voters as a % of the number of registered architects	Cost of advertising election	Cost of election process	Total administrative cost of election
2012	4338	1112	26%	\$7,000	\$22,852	\$29,852
2014	4334	993	23%	\$3,400	\$24,410	\$27,810
2016	4975	1082	22%	\$3,455	\$26,908	\$30,363

Source: NSW Architects Registration Board (2017)

The draft Regulation replaces the requirement to advertise election of architects to the Board in a print newspaper with the requirement for the Board to advertise elections on their website and email notifications to registered architects. As per Table A, in 2016, the cost for advertising elections in print newspapers was approximately \$3,500. The removal of this cost will provide a 100% savings to the Board for advertising. By advertising elections on the Board's website and through emailing notifications, the Board is encouraged to use current technologies with little to no additional cost implications.

The draft Regulation introduces electronic balloting, in addition to postal balloting, for the election of architects to the Board. This electronic balloting process allows for email and online voting options for conducting ballots. As per Table A, the cost for conducting a postal ballot for the election of architects to the Board in 2016 was \$26,908. An initial quote of \$7,490 has been obtained for conducting the election of architects to the Board via an online website voting system. This initial estimate indicates that the cost of advertising and conducting elections of architects to the Board could be reduced by over \$30,000 or approximately 75% by advertising online and conducting an electronic ballot rather than a postal ballot.

The draft Regulation extends recognition of architectural qualifications to all recognised universities in NSW. This will allow recognised universities in NSW to more easily develop an architectural course. In turn, competition will increase and course costs will fall, providing a significant economic benefit for both universities and students.

The draft Regulation replaces the need for architects to provide their clients with a copy of the Code with the requirement to notify clients of the existence of the Code and how the client can obtain a copy. This provides a cost savings to architects by removing the need to print copies of a lengthy document.

The removal of unnecessary paper-based processes and replacing them with electronic processes wherever possible in the draft Regulation provides major cost savings on printing services generally. This includes advertising elections online and communicating with architects via email as the primary method, rather than by post. This is in line with the state priority “70% of government transactions to be conducted via digital channels by 2019”. This will provide economic benefits as well as significantly reduce the environmental footprint of the architectural industry.

### **Option 1 - Benefits**

Making the draft Regulation is anticipated to safeguard the operation of the Act by implementing appropriate Regulations, but also improve the capacity of regulators to achieve the objectives of the Act. This will ensure the appropriate level of requirements are in place for architects while maintaining consumer protections.

The draft Regulation allows for the name, registration number, registration status and practicing status of registered architects to be made publically available. This will benefit consumers significantly by increasing the ease of finding an architect. There are also positive economic benefits as architects are able to increase their visibility to the public.

The electronic ballot process will simplify the process for conducting elections as well as increase the ease of voting. The Regulation will also be modernised and brought into the digital age. This will provide significant economic benefits. Postal balloting will remain an option for architects that do not have internet access or who do not wish to vote electronically to ensure participation in election processes and avoid disenfranchisement.

Table B – Complaints to the Board against registered practicing architects in NSW during 2014-15

	<b>Number</b>	<b>Percentage</b>
Registered practising Architects	3,930	
Calls to the Board	49	1.2%
Complaints to the Board	13	0.3%

Source: NSW Architects Registration Board (2017)

The draft Regulation maintains the high quality of professional practices for architects prescribed in the Code. The number of complaints against architects is currently significantly low, as per the statistics provided in Table B above. By maintaining the professionalism required by the Code, it is anticipated that the number of complaints to the Board will remain low.

Some draft amendments have been made to the Regulation to simplify and modernise the requirements in the Code, without making significant changes to the content of the Code. This ensures that the current level of professionalism required by architects is maintained. Clients of architects can remain assured that the appropriate consumer protections are in place. This is a significant social and economic benefit to architects, consumers and the wider community.

### Option 1 – Conclusion

Criteria	Score	Summary
<b>Ensures that architects provide services to the public in a professional and competent manner</b>	+1	The draft Regulation maintains the professional requirements in the Code and in turn ensures the maintenance of the quality and certainty in architect-client relationships. The draft Regulation provides a framework to maintain good professional practice and a high quality standard for architects benefits consumers and the wider community.
<b>Ensures that the public is appropriately informed about the qualifications and competence of registered architects</b>	+1	The draft Regulation updates and improves the qualification requirements for registration as an architect to recognise architectural qualifications obtained from all recognised universities in NSW. This amendment maintains the level of specificity and certainty in the qualifications of architects while providing greater flexibility. In addition, allowing the name, registration number, registration status and practicing status of registered architects publicly available online provides for further transparency and public trust in the sector. Consumers will be able to more easily access information about registered architects and make informed decisions when selecting the services of a registered architect.
<b>Modernises regulation</b>	+1	The draft Regulation contains amendments that will modernise requirements by replacing paper-based processes with electronic processes wherever practicable. This includes replacing postal communications with email communications as well as replacing newspaper advertising of elections with website advertising where possible.

Criteria	Score	Summary
		The draft Regulation also allows for electronic balloting processes for election of members to the Board, which will have an estimated cost savings of over \$30,000 per election.
<b>Reduces red tape</b>	+1	The draft Regulation reduces red tape by amending, reducing or removing provisions that prescribe unnecessary administrative and regulatory processes. This reduces or removes regulatory burden and provides for a more succinct and easier to read Regulation.
	<b>4</b>	<b>Recommended as the preferred option.</b>

## Assessment of Option 2 – Maintain the Status Quo

This option would result in remaking the current Regulation without amendment when it lapses on 1 September 2017 under the *Subordinate Legislation Act 1989*.

### Option 2 - Costs

It is unlikely that maintaining the status quo will impose any new or additional costs. However, there are significant opportunity costs for not realising the savings, modernisation, improved efficiency and reduced red tape provided to the architectural industry by the draft Regulation.

First, if the Regulation is not amended and restrictions are maintained on the recognition of architectural qualifications to those obtained from only 4 specific universities in NSW, rather than all recognised universities in NSW, the barriers to other universities developing an architectural course will remain in place.

If the Regulation is not amended, consumers would not experience improvements to the ease of accessing information on registered architects. Progress would not be made in the architecture sector and this would negatively impact architects, the Board, consumers and the wider community.

If the Regulation is not amended, paper-based processes, which are outdated, environmentally unfriendly and costly, would not be replaced with electronic processes. There would be no improvements to the efficiency of communication between the Board and architects. Progress would not be made to the state priority “70% of government transactions to be conducted via digital channels by 2019”.

If the current Regulation is not amended, the potential cost reductions for undertaking alternative balloting processes, such as electronic ballots, for the election of certain members to the Board would not be realised. There would be no changes to the requirements in the Regulation and in turn no cost changes to architects, the Board and the NSW Government.

### Option 2 - Benefits

The primary benefit of maintaining the status quo is that registered architects would not need to be educated about any new requirements. In addition, the Board would not be required to update any existing policies, processes or systems to adjust to new requirements.

However, by maintaining the status-quo, there would unlikely be any overall positive impact on the operation of the Act and the efficacy of the architecture industry. Consumers and the wider community would not realise the improvements provided by the draft Regulation.

## Option 2 - Conclusion

Criteria	Score	Summary
<b>Ensures that architects provide services to the public in a professional and competent manner</b>	+1	<p>Maintaining the status quo would maintain the professional requirements in the Code and in turn ensure the maintenance of the quality and certainty in architect-client relationships.</p> <p>Maintaining good professional practice and a high quality standard for architects would benefit consumers and the wider community through a confident market.</p>
<b>Ensures that the public is appropriately informed about the qualifications and competence of registered architects</b>	0	<p>Maintaining the status quo would maintain the level of specificity and transparency in the industry regarding the qualification requirements for registration as an architect.</p> <p>However, this option would maintain restrictions on other universities in NSW from developing an architectural course.</p> <p>In addition, this option would not take the opportunity to improve the requirements in the Regulation for the benefit of consumers, including in regards to the ease of access to information and the public availability of the register of architects.</p>
<b>Modernises regulation</b>	-1	<p>Maintaining the status quo would not allow the current Regulation to be modernised and brought into line with the digital age in which it operates. Outdated processes such as communicating via post, advertising elections in newspapers and undertaking elections via postal ballot will remain in place.</p>
<b>Reduces red tape</b>	-1	<p>Maintaining the status quo would not allow a reduction of red tape or a reduction of regulatory barriers. Unnecessary clauses that over-prescribe administrative and regulatory processes will not be removed and will continue to burden architects, the Board, the NSW Government, consumers and the wider community.</p>
	<b>-1</b>	<b>Not recommended as the preferred option.</b>

## Assessment of Option 3 – Take no action

This option would result in the current Regulation being automatically repealed when it lapses on 1 September 2017 and not being replaced.

### Option 3 - Costs

It is high likely that taking no action will result in significant costs.

Taking no action will result in the automatic repeal of the Regulation and in turn the absence of necessary legislative provisions required to achieve the objectives of the Act. The Act requires that a range of matters be prescribed by a Regulation to give effect to the enabling provisions in the Act. The Regulation prescribes the function and membership of the Board and the Registrar as well as the process for election of members to the Board and the election process itself.

If the Regulation was to be automatically repealed and not replaced, delegated functions essential to the operation of the Act could not be prescribed and there would be no provisions that enable the operation of the Act's requirements, rendering the Act ineffective in meeting its objectives.

### Option 3 - Benefits

There are no clear benefits. Costs associated with complying with the regulatory framework would be removed, however the net public benefit of having a regulatory regime for architects would also be removed.

### Option 3 - Conclusion

Criteria	Score	Summary
<b>Ensures that architects provide services to the public in a professional and competent manner</b>	-1	Taking no action would result in the Code being automatically repealed. Without a statutory Code there would be no clear and easily enforceable professional requirements for architects, which would be likely to diminish the quality and certainty in architect-client relationships.
<b>Ensures that the public is appropriately informed about the qualifications and competence of registered architects</b>	-1	Taking no action would result in the prescribed requirements no longer having effect and the only qualification requirements would be those provided in the Act. This would not be sufficient to ensure certainty of the requirements and allow for competition in the marketplace by prescribing additional qualifications.
<b>Modernises regulation</b>	-1	Taking no action would result in the Regulation being automatically repealed and therefore removes the opportunity to



Criteria	Score	Summary
		modernise the regulation. This would have a negative effect on the modernisation of the Regulation.
<b>Reduces red tape</b>	0	<p>Taking no action would result in the Regulation being automatically repealed and therefore technically reduces red tape as regulatory requirements would be removed.</p> <p>However, the requirements in the Act would remain in place and essential regulatory requirements for implementing the Act would be removed. The architecture industry as well as consumers would be burdened with determining how to implement the requirements of the Act. This will cause confusion, uncertainty and a lack of uniformity in the architecture industry.</p>
	<b>-3</b>	<b>Not recommended as the preferred option.</b>

## Preferred Option

### Option 1 - Make the draft Regulation, is the preferred option.

Making the draft Regulation would provide the most appropriate means of achieving the objectives of the Regulation and the overarching objectives of the Act. Specifically, the draft Regulation:

- extends recognition of architectural qualifications for registration to all universities in NSW;
- improves public information about the registration status of registered architects in NSW;
- reduces the environmental footprint of the architecture industry in NSW by replacing paper-based processes with electronic processes, taking advantage of digital solutions;
- provides efficient options for conducting ballots for election of members to the Board; and
- ensures that registered architects in NSW continue to provide services in a professional and competent manner to maintain the necessary consumer protections.

This option would facilitate the operation of the Act and give full effect to its provisions with all the associated benefits and reforms requested by industry stakeholders and the community.

## Regulation Making Powers under the Act

Section in the Act	Regulation making power under the Act	Clause in the draft Regulation	Scope of the draft Regulation
<b>Part 2 Practice of architecture</b>			
7	Establish a code of professional conduct for architects.	Schedule 2	Sets out the NSW Architects Code of Professional Conduct.
14(f)	Determine exceptions for titles used to identify as an architect.	11	No longer prescribed.
<b>Part 3 Registration</b>			
16(1)(a)	Set out architectural qualifications for registration as an architect.	4	Requires a Bachelor of Architecture, or any Masters degree in the discipline of architecture, from a recognised university in NSW.
16(1)(b)	Set out the criteria for a course of study to be considered a relevant qualification for registration as an architect.	5	Requires courses of study to be accredited in accordance with the Australian and New Zealand Architecture Program Accreditation Procedure.
22(2)	Modify or limit the application of the <i>Licensing and Registration (Uniform Procedures) Act 2002</i> .		Not prescribed.
22(4)	Set out requirements for full registration and temporary registration as an architect.		Not prescribed.
25(5)(a)	Determine the details recorded in the Register of architects.	6	Requires the Register to contain the contact details, practicing status and nominating firms of architects.
25(5)(b)	Determine the format of the Register of architects.		Not prescribed.

Section in the Act	Regulation making power under the Act	Clause in the draft Regulation	Scope of the draft Regulation
28(8)	Determine exemptions for annual registration fees of temporary registration.		Not prescribed.
<b>Part 4 Complaints and disciplinary proceedings</b>			
32	Determine what classifies professional misconduct and unsatisfactory professional conduct.	13	Determines misconduct as failure to be competent and diligent.
<b>Part 5 NSW Architects Registration Board</b>			
60(1)(c)	Outline process for appointing an academic representative to the Board.	8	Requires the governing body of universities in NSW to take turns in appointing academic representatives to the Board.
60(1)(d)	Outline process for electing architect representatives to the Board.	9; Schedule 1	Requires architect representatives on the Board to be elected by registered architects in NSW.
60(3)	Outline process for rotating appointments of an academic representative to the Board.		No longer prescribed.
60(6)	Determine universities eligible for appointing a representative to the Board.	7	Allows universities in NSW that offer an accredited architectural to appoint a representative to the Board.
<b>Part 6 Finance</b>			
68(1)	Determine services for which the Board can charge fees.		Not prescribed.
68(2)	Determine services for which the Board cannot charge fees.		No longer prescribed.

Section in the Act	Regulation making power under the Act	Clause in the draft Regulation	Scope of the draft Regulation
69(3)	Determine the maximum amount that the Board can charge for approved fees.		Not prescribed.
<b>Part 7 Miscellaneous</b>			
84(2)(a)	Set out the process for electing Board members.	Schedule 1	Outlines the election process for architect representatives on the Board.
84(2)(b)	Outline the duties of the Board.		Not prescribed.
84(2)(c)	Outline the functions of the Registrar.	6; Schedule 1	Outlines the requirements for maintaining the Register of architects and undertaking the Board election process.
84(2)(d)	Determine the qualifications for registration as an architect.	4; Schedule 2	Outlines the qualifications required for registration as an architect and the requirements for continuing professional development.
84(2)(e)	Set out the complaints procedure.		Not prescribed.
84(2)(f)	Determine exam requirements for registration as an architect.		Not prescribed.
84(2)(g)	Outline professional indemnity insurance requirements.	Schedule 2	Requires architects to maintain professional indemnity insurance.
84(2)(h)	Determine education requirements for sitting exams to register as an architect.		Not prescribed.
84(3)	Determine offences punishable by a penalty notice.	Schedule 1	Punishes for offences relating to the election of architects to the Board.

# Discussion of the draft Regulation

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A summary of major changes to the Regulation is provided in Appendix 2 and a summary of the draft Regulation is provided in Appendix 3.

The following discussion points provide greater context for some provisions in the draft Regulation and explore some regulatory options for these provisions.

## Part 1 Preliminary

### Date of Commencement of the draft Regulation

The current Regulation will automatically repeal on 1 September 2017 under the *Subordinate Legislation Act 1989*. The draft Regulation will replace the current Regulation on 1 September 2017.

## Part 2 Registration

### Requirements for registration as an architect

Clause 4 of the draft Regulation requires that a Degree of Bachelor of Architecture, or any Masters degree in the discipline of architecture, from a recognised university in NSW constitutes qualifications for registration as an architect. The draft Regulation removes the list of universities in NSW where qualifications for registration as an architect can be obtained. This amendment removes the barrier for other universities in NSW that may develop an architectural course.

Clause 5 of the draft Regulation maintains that a course of study is accredited in accordance with the *Australian and New Zealand Architecture Program Accreditation Procedure*, which is published by the Architects Accreditation Council of Australia and the Australian Institute of Architects. The list of accredited architectural courses is available from the Architects Accreditation Council of Australia website: <http://www.aaca.org.au/registration-as-an-architect/recognised-architecture-qualifications/>.

- 1. Are there any unintended consequences that have not been considered for the qualifications and accredited courses of study for registration as an architect?**

### Register of Architects

Clause 6 of the draft Regulation provides that, in addition to standard details, the Register must contain the architect's address, email address, whether they are practicing or non-practicing, whether all required forms have been submitted, and details of corporations or firms for which the architect is a nominated architect. The draft Regulation adds that the email of an architect is to be recorded in the Register to acknowledge that email has become a dominant form of business communication.

**2. Is there any other information that should be recorded in the Register of architects?**

## **Part 3 The Board**

### **Appointment of academic representatives to the Board**

Clause 7 of the draft Regulation allows universities in NSW that offer an accredited architectural course to appoint academic representatives to the Board. Clause 8 of the draft Regulation requires that academic representatives on the Board are appointed by the governing bodies of universities in NSW that offer an accredited architectural course, on a rollover-basis.

The draft Regulation removes the list of universities in NSW eligible to appoint an academic representative to the Board. The draft Regulation also removes the specificity of which governing body of a university appoints the next academic member from another governing body based on the member vacating office. These amendments allows other universities in NSW that may develop an accredited architectural course to appoint academic representatives to the Board.

**3. Is there another way of appointing academic representatives to the Board?**

## **Part 4 Miscellaneous**

### **Representation as an architect**

The draft Regulation does not make any amendments to representation that a person is an architect and exceptions for names of professional associations. Clause 11 of the draft Regulation provides that a representation using the title or description “architectural designer” or describing a service provided as “architectural design” constitutes representation as an architect. Clause 12 of the draft Regulation prescribes that a professional association of architects is not prohibited from using the title or description of “architect” or “registered architect” in the name of the association.

**4. Are the titles, names or descriptions that should be either included or excluded as a representation as an architect?**

## Schedule 1 Election of Architect Members to the Board

### Notice of election, nominations and notice of ballot

The draft Regulation amends the process for the notice of election and the notice of ballot of architects to the Board in Schedule 1, Part 2, Clause 2 and Schedule 1, Part 4, Clause 12 respectively. The draft Regulation allows the notice of election and the notice of ballot to be published on the Board's website and sent to registered architects by email or post, instead of publishing the notices in a newspaper. As communication channels have significantly changed, these draft amendments modernise the election process and encourage greater participation in the election of architects to the Board.

The draft Regulation amends Schedule 1, Part 3, Clause 9 to allow candidates nominates for election of architects to the Board to submit information of no more than 200 words in length, rather than the current 100 words, for inclusion in the candidate information sheet. This amendment brings the NSW regulations in line with the nomination process in other State architect regulations including the Victoria, Queensland and South Australia regulations.

### Electronic Balloting

The draft Regulation replaces the current postal ballot process for election of architects to the Board in Schedule 1, Part 5 with two electronic options for undertaking ballots, that is, email ballot and online ballot. The ballot process in the current Regulation allows for only a paper-based postal ballot process. The amendment in the draft Regulation allows an election to be conducted either by email or through an online voting portal. Both of these ballot options allow voters to choose to undertake the ballot process by postal ballot, which would be undertaken in a similar way to the email ballot process. Voters may opt-in to postal balloting if, for example, the voter does not have an email address or does not have access to the internet during the voting period.

The ballot process has also been simplified to remove unnecessary prescription of administrative processes while maintaining the necessary checks and balances of an election process. These amendments aim to replace paper-based processes with electronic processes as well as remove unnecessary administrative requirements wherever possible. The aim is to simplify and modernise the ballot process to make it more flexible to technological changes and permit the use of new forms of technology to conduct a ballot. This will encourage more registered architects to participate in the election process as well as provides a relatively significant cost savings to the Board.

**5. Are there any unintended consequences that have not been considered for introducing electronic ballot processes for the election of architect members to the Board?**

## Schedule 2 NSW Architects Code of Professional Conduct

The Code provides an important framework for maintaining professionalism amongst architects as well as ensuring the public's confidence in the architecture industry and protecting consumers. The Code is achieving its objectives and is well received within the architecture industry and by consumers.

The draft Regulation does not make significant amendments to the Code. Some minor amendments have been made to simplify and modernise the language in the Code. The draft Regulation also provides greater flexibility in mechanisms to discipline architects who are found to have acted unprofessionally or incompetently under the Code.

### **Standards concerning dealings with clients**

The draft Regulation adds two requirements relating to the provision of client agreements in Schedule 2, Part 3, Clause 7 of the current Regulation. The draft Regulation amends Schedule 2, Part 3, Clause 7 to require that client agreements make a provision for alternative dispute resolution. This provision applies the requirements in Schedule 2, Clause 18 of the current Regulation. In addition, the draft Regulation amends Schedule 2, Part 3, Clause 7 to require that client agreements draw the attention of the client to the existence of the Code and where a copy of the Code may be obtained. This replaces the requirements in Schedule 2, Part 3, Clause 15 of the current Regulation which requires architects to make a copy of the Code available for prospective clients and provide a copy of the Code to clients.

The Code also outlines standards relating to general practice, including disclosure of conflicts of interest, professional indemnity insurance coverage, continuing professional development, dispute resolution, the public, and professional relationships with other architects. No significant amendments have been made to these standards.

**6. Are there any other professional standards that should be provided in the Code?**



## Appendix 1 – Background Information

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Architecture is the profession of designing buildings and other physical structures with regard to aesthetics, structural engineering, the environment and human use. Architects prepare reports, site plans, drawings, specifications and cost estimates for the design and construction of buildings. Architects consult with associated professionals and clients on matters concerning geography, ecology, construction and costs.

Currently there are approximately 5,000 registered architects in NSW and 11,000 registered architects across Australia. All state and territories in Australia regulate architects separately.

In November 2000, the Australian Productivity Commission released the Report on Legislation Regulating the Architectural Profession. In response to the Productivity Commission's report, state and territory governments formed a working group to develop a national approach to the regulation of the profession, which concluded that the legislation in each state and territory should be harmonised across all jurisdictions. This proposal was accepted by the Australian Procurement and Construction Ministerial Council in June 2002. Thereafter, most jurisdictions began the process of either amending their existing legislation or drafting new legislation.

The *Architects Act 2003* (NSW) (the Act) was introduced into NSW Parliament in 2003 and came into force on 30 June 2004. The Act replaced the *Architects Act 1921* (NSW) in regulating the architectural profession. The objects of the Act are to ensure that architects provide services to the public in a professional and competent manner, to provide mechanisms to discipline architects who are found to have acted unprofessionally or incompetently, to ensure that the public is appropriately informed about the qualifications and competence of individuals or organisations holding themselves out as architects, and to promote a better understanding of architectural issues in the community. The NSW Architects Registration Board (the Board) administers the Act.

The Act provides that the Regulations may make a number of provisions including for the election of members to the Board, duties of members of the Board, functions of the Registrar, qualifications for registration as an architect, procedure for investigation and determination of complaints by the Board, conduct of examinations for registration as an architect, requirements for professional indemnity insurance, and the standard of educational attainments for candidates at an examination conducted by the Board.

## Appendix 2 - Summary of changes to the Regulation

The following table sets out the major changes and amendments to the Regulation:

Current 2012 Regulation	Draft 2017 Regulation
<p>Clause 4 of the current Regulation provides a list of universities in NSW that a Degree of Bachelor of Architecture, or any Masters degree in the discipline of architecture, can be obtained to constitute qualifications for registration as an architect.</p>	<p>The draft Regulation removes the list of universities in NSW where qualifications for registration as an architect can be obtained and replaces this with recognised universities in NSW that offer an accredited architectural course.</p>
<p>Clause 6 of the current Regulation provides that in addition to standard details, the Register must contain the architect's address, whether they are practicing or non-practicing, whether all required forms have been submitted, and details of corporations or firms for which the architect is a nominated architect.</p>	<p>The draft Regulation adds that the registration number and email address of an architect is to be recorded in the Register.</p>
<p>Clause 7 of the current Regulation provides a list of universities in NSW who offer an accredited architectural course and are considered relevant educational institutions for the purposes of the appointment of academic members to the Board.</p>	<p>The draft Regulation removes the list of universities in NSW considered relevant educational institutions for the purposes of the appointment of academic members and replaces this with universities in NSW that offer an accredited architectural course.</p>
<p>Clause 8 of the current Regulation outlines which governing bodies of relevant educational institutions appoint the next academic member of the Board from another governing body based on the member vacating office.</p>	<p>The proposed Regulation removes this specificity of which governing bodies appoint the next academic member to the Board and instead requires that the relevant educational institutions appoint academic members to the Board on rotation.</p>
<p>Schedule 1, Part 2, Clause 2 of the current Regulation prescribes publishing the notice of election of architect members to the Board in a newspaper circulated throughout the State.</p>	<p>The draft Regulation removes this requirement and instead requires that the notice of election is published on the Board's website and sent to registered architects by email or post.</p>

Current 2012 Regulation	Draft 2017 Regulation
Schedule 1, Part 3, Clause 9 of the current Regulation provides that candidates for election of architect members to the Board may submit information of no more than 100 words in length for inclusion in the candidate information sheet.	The draft amends this requirement to allow for up to 200 words in the candidate information sheet.
Schedule 1, Part 4, Clause 12 of the current Regulation prescribes publishing the notice of ballot of architect members to the Board in a newspaper circulated throughout the State.	The draft Regulation amends this requirement and instead requires that the notice of ballot is published on the Board's website and sent to registered architects by email or post.
Schedule 1, Part 5 of the current Regulation prescribes the ballot process for election of architect members to the Board.	The draft Regulation replaces the postal ballot process for election of architect members to the Board with two electronic options for undertaking ballots, that is, email ballot and online ballot.
Schedule 1, Part 6, Clause 20 of the current Regulation prescribes the process for appointing scrutineers on close ballot.	The draft Regulation removes this requirement.
Schedule 1, Part 6, Clause 23 of the current Regulation prescribes the requirements for notifying election results.	The draft Regulation adds a requirement that the returning officer is to notify the Registrar of the election result; and the election result is to be published on the Board's website.
Schedule 2, Part 3, Clause 7 of the current Regulation prescribes requirements for client agreements.	The draft Regulation adds two requirements including requiring client agreements to make a provision for alternative dispute resolution as well as draw the attention of the client to the existence of the Code and where a copy of the Code may be obtained.

## Appendix 3 – Summary of the draft Regulation

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**Clauses 1 and 2** provide the name and date of commencement of the Regulation.

**Clause 3** provides references to definitions phrases used in the Regulation.

**Clause 4** sets out the qualifications required for registration as an architect.

**Clause 5** prescribes the criteria that must be met for a course of study to be accredited by the Board as a necessary qualification for registration as an architect.

**Clause 6** provides the particulars that are to be recorded in the Register of Architects maintained by the Registrar of the Board.

**Clause 7** provides the relevant educational institution for the purpose of appointing an academic member to the Board.

**Clause 8** provides the process by which an academic member of the Board is appointed.

**Clause 9** provides that the election of architect members of the Board is to be conducted as set out in Schedule 1 of the Regulation.

**Clause 10** list certain representations that constitute a representation a person, firm or corporation is an architect.

**Clause 11** allows professional associations of architects to use the title or description of architect or registered architect in its name.

**Clause 12** provides that the NSW Architects Code of Professional Conduct is set out in Schedule 2 of the Regulation.

**Clause 13** establishes the conduct of an architect that is declared to be professional misconduct for the purposes of complaints and disciplinary proceedings under the Act.

**Clause 14** Provides a general savings provision.

**Schedule 1** Prescribes the process for conducting an election of architect members of the Board.

**Schedule 2** Provides the NSW Architects Code of Professional Conduct.

# Notes

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