

Article Information

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The NSW Building Reform Train Steams On

It would be fair to say that 2021 was quite intense in the building regulation space.

The Office of the Building Commissioner and the Department of Customer Service more generally, have muscled their way to a stronger focus on quality, competence, safety and compliance by all involved. Early results look promising.

The Department's messaging is that the head of steam has not abated. It is in a recruitment mode, building on its team of regulatory compliance inspectors, managers, lawyers and executives to keep the tide rising.

2022 will involve an audit of the transitional registrations for design and building practitioners and new legal resources for Project Remediate. Whilst transitional registration was easy and the bar low, in that the volume of applications did not permit close scrutiny, the audit will focus on confirming that registrants have the qualifications, training and experience they assert and that the training organisations cited are registered under the *National Vocational Education and Training Regulator Act 2011* (Cth) and in fact have the qualification listed on their scope of registration. Some registrants will be asked to 'show cause' and de-registrations could follow, with unpredictable consequences.

2022 will likely see the introduction of iCIRT ratings for builders, subcontractors, certifiers and consultants, giving consumers and other stakeholders independent guidance as to which construction industry professional is likely to deliver a more reliable outcome.

Decennial liability insurance (10 year first resort insurance for major items of construction work such as structural, fire protection and waterproofing in common property) will likely follow, but seems unlikely this year.

The scope of the *Design and Building Practitioners Act 2020* (NSW) (**DBP Act**) is likely to be widened in a second tranche of legislation, extending beyond Class 2 buildings to protect other categories of less sophisticated/more vulnerable users and stakeholders.

Early indications are that the DBP Act will be extended to Class 1(b): boarding houses, guest houses or hostels (that have a floor area less than 300 m² and ordinarily have less than 12 residents) and Class 9(c): aged care buildings.

The Building and Construction Policy team at the Department of Customer Service has notified that it will now be engaging in consultation on various new initiatives in building and construction legislation. Highlights include:

- new duties on all persons who design, manufacture, supply or import building products, and those who incorporate products in designs or use or install them in construction, to ensure building products are safe for their intended purpose;
- new obligations on licence holders to not do business with parties who have engaged in misconduct;
- providing consistent CPD processes across all licence holders and enabling the assessment of competency of certifiers to be conducted by industry associations with a professional standards scheme;
- improving processes for the use of the security bond to rectify defects in strata developments, including establishing a framework for the approval of authorised professional associations; and
- improving processes associated with payment claims and retention money trusts to ensure greater protections and establishing a limited mechanism for adjudication appeals.



There will be plenty to think about, talk about and do in 2022.

Happy New Year!