




**ASSOCIATION OF CONSULTING  
STRUCTURAL ENGINEERS NSW**

**Design & Building Practitioners Act  
Members Forum**










1



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## **What we will cover**

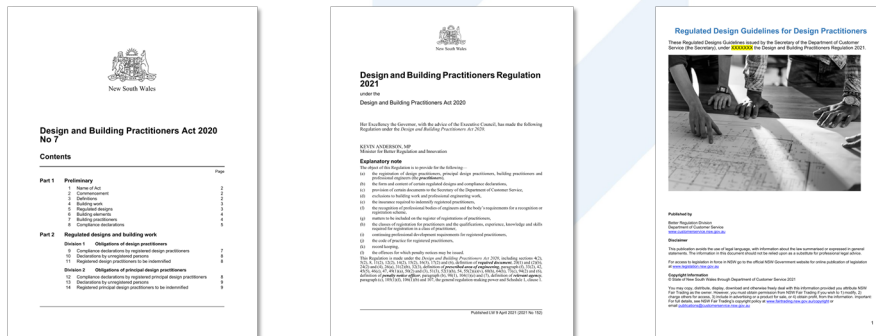
- The Act & Regulation
- Key Changes to current situation
- Duty of Care
- Design Compliance Certificates
- Lodgement of Regulated Design Drawings
- Transitional Arrangements
- Construction Sign Off
- Insurance Requirements
- Further Information

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2

## The Act, Regulation & Guidelines



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3

## The Act, Regulation & Guidelines

- The Act is the over-arching legislation
- The Regulation enacted late April 2021 stipulates what needs to be done for compliance
- Currently applies to Type 2 buildings only – multi-format residential
- The Guidelines tell us how to do it

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4

## Key Changes

- Duty of Care
- Registration of Design Practitioners and Engineers
- Lodgement of Regulated Designs and Design Compliance Certificates

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5

## Duty of Care

- The Act provides a Duty of Care liability on Architects, Engineers, Builders & suppliers in favour of the owners of a building
- The Duty of Care extends also to subsequent owners of the building, for a total period of 10 years.
- The Duty of Care cannot be contracted out of, and the Liability cannot be capped or limited.

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6

## Registered Design Practitioner

- Structural Engineers will need to be registered as a Registered Engineer and a Registered Design Practitioner in order to lodge Regulated Designs and to provide Design Compliance Statements
- Applications for registration can be made after 1<sup>st</sup> July
- Proof of 'adequate insurance' is required in support of applications

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7

## Lodgement of Design Compliance Certificates

- Design Compliance Certificates and Regulated Designs will need to be lodged on the Govt Portal.
- A PCA will not be able to issue CC until ALL designs have been completed and lodged
- This includes, for example, PT details, concrete set out plans

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## Design Compliance Declarations

- The Guidelines provide full details of what has to be lodged, including drawing details, scales to be adopted, even the Title Block to be used

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9

## Lodgement of Design Compliance Certificates

- Design Compliance Certificates and Regulated Designs will need to be lodged on the Govt Portal.
- A PCA will not be able to issue CC until ALL Regulated designs have been completed and lodged
- The Regulated Design must be essentially complete. This includes, for example, PT details, concrete set out plans

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10

## Lodgement of Design Compliance Certificates

- Lodgement before Building Work Commences
- Lodgement after Building work commences (Issued no later than 1 day after commencing variation works)
- Lodgement before Issue of Occupational Certificate (As-built)

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11

## Record Keeping

- Requirements around record keeping
- Records maintained for 10 years
- Penalties apply for failure to comply.

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## Transitional Arrangements

- Any applications to become registered received in the 6 months after 1st July will be 'deemed to be accepted'
- Two-year grace period to demonstrate 'adequate insurance'

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## Insurance Requirements

Different issues to consider under the Act and Regulations

- Duty of Care
- Design Compliance Declaration
- Registration
- Professional indemnity policies (usually) cover "Civil Liability"
- Note D&BP Act exclusions

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16



## Insurance Requirements

- Design Compliance Declarations - are you covered?
- Good question!
- Before we consider exclusions we need to consider the insurance clause.
- Do you have the professional expertise to sign off on the single or regulated design?
- Who within your firm has the skill and experience to sign-off?



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## Insurance Requirements – Questions

- How much is “adequate” insurance?
- Are employees “covered”?
- Tender pricing - How do you tender for work given the new obligations on “front end” design under the Act and Regulations? Caveats/disclaimers in fee proposal.



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18




## Questions

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Simon has been the State Manager at Planned Cover since joining in 2006. He is also responsible for handling the company's major professional indemnity insurance accounts as a broker. Simon's unique blend of legal and insurance experience enables him to provide his clients with insurance and risk management advice that goes beyond traditional insurance broking.



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19



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## Further Information

- <https://legacy.legislation.nsw.gov.au/~pdf/view/act/2020/7/whole>
- <https://legislation.nsw.gov.au/view/pdf/asmade/sl-2021-152>

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20



## Further Information

*Exploring the insurance implications of the new D&BP Act regulations*

- <https://vimeo.com/509112302>

*New rules for the construction industry in NSW: with an introduction by the NSW Building Commissioner*

- <https://vimeo.com/445090179>

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## Questions and General Discussion

Open Floor for Members

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22



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