



NSW Government acting to strengthen building industry through a revamp to the current legislative framework

Introduction

The construction industry has been under scrutiny in recent years, particularly after the media frenzy surrounding the Opal and Mascot Tower. On 16 May 2023, the Minns Labor Government announced that it has every intention to fulfil its election commitment to strengthen the NSW building industry.

Premier Minns confirmed that he will introduce its new **"plain English Building Act"** which will *"consolidate and modernise many pieces of legislation, some decades old, scattered throughout the state's statute books. This work will provide clarity to consumers and the sector about their rights and responsibilities."*

The key changes that we can look out for are summarised below:

Key Changes

The purpose of the Building Bill is to consolidate and regulate the construction industry, including class of buildings, licencing, approvals fire safety regulations and consumer protections (e.g. statutory warranties) Key changes that are currently being considered (as follows)

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- **Replacing and broadening scope of the Home Building Act:** Example: replacing the definition of 'major defect' with 'serious defect' (as defined in the RAB Act). Note that 'serious defect' is broader in application and may include internal walls and fittings as these items fall within the definition of a "building element".
- **Extending Statutory Warranty Period:** Major defect warranty may be extended from six years to ten years. This will dovetail nicely with the new latent defect insurance being offered in NSW which commences for 10 years from the date of an occupation certificate. It is also consistent with the government's introduction of a 10 year statutory duty of care regime in the DBP Act.
- **Terminology Change:** The Bill will also replace the defined term 'construction work' with 'building work'. As a result, in situations of economic loss caused by defects, the new Bill will allow for current and subsequent residential and commercial building owners to rely on a statutory duty of care to bring claims against certifiers.
- **Expanding statutory duty of care:** The Bill will incorporate the duty of care provisions under the DBP Act and confirm that this duty of care will expand to all building work (as per recent court decisions).
- **Streamlining Licencing:** The Bill will expand licencing requirements for building works to also commercial works, design, fire, safety and engineering works.
- **Director Obligations:** For corporations licenced to carry out works, directors will be required to make sure that there are appropriate management systems and a 'nominee supervisor' has been engaged to ensure compliance with the Building Bill.

More information

For further information on the new Building Bill contact the team at [Construction Legal](#).