



Has the DBP Act changed? Not yet! Here is what NSW's new Building Approvals Act really means

Someone asked me the other day:

"What's this new Building Act I hear about? Apparently it has replaced the DBP Act! Just when industry finally got used to it, the government has gone and changed it all again!"

This is a fair question, but the short answer is No - the Design and Building Practitioners Act 2020 (known also as the "DBP Act") has not been replaced yet.

What applies today?

The Building (Approvals and Practitioners) Act 2026 was enacted on 14 August 2026, but almost all of it is waiting for a future commencement date. Only two specific amendments have commenced, relating to manufactured homes and Crown development. The remainder of the Act will come into effect on a future date, presently unknown.

This means its largely business as usual for all current projects.

The DBP Act 2020 and its Regulation still apply. So does the Building and Development Certifiers Act 2018 and its Regulations. Construction certificates and occupation certificates still exist. Current registration, regulated design, declaration and NSW Planning Portal requirements also continue.

So what will happen later?

The central idea of the Building Approvals Act is consolidation. It brings together, in one statute, the building approval and certification processes currently sitting under the EP&A Act and the design, practitioner and compliance regime currently sitting under the DBP Act

Once the relevant commencement occurs, the following statutes will be repealed:

- the Design and Building Practitioners Act 2020 and its Regulation
- the Building and Development Certifiers Act 2018 and its Regulation
- the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

This does not mean the DBP system is simply being abandoned. Many familiar obligations are being carried into the new framework, but they will sit beside a new approvals system.

Exactly how existing registrations will transfer is not yet settled publicly. The Act permits savings and transitional regulations, but the final transition rules remain important for current registrations, applications and live projects.

The structural split is straightforward: Part 3 deals with approvals; Part 4 deals with registration. Some key terms will change, such as:

- **Construction certificates** will become "building

approvals”

- **Occupation certificates** will become “completion approvals”
- The concept of “**staged approvals**” will be introduced (to allow projects to move quicker)
- **Building approvals** will be able to be varied during construction, provided the approval authority consents and the affected work has not already been carried out (again, to speed up construction in an effort to meet our housing accord targets)

Certifier independence, with teeth

Certifiers will operate within the new “approval authority” framework. The Act also introduces higher penalties and, if convicted for certain conflict breaches, an automatic period of registration suspension.

Prefab is officially here

The Act gives prefabricated and modular buildings a clearer legislative pathway. It creates requirements for prefabricated building declarations and instructions. Whether particular manufacturers or suppliers must provide or comply with them, and when those obligations apply, will depend on the operative provisions and the regulations.

This is intended to support modern methods of construction without removing accountability across manufacture, supply, delivery and installation.

Duty of care: staying put

The statutory duty of care is not disappearing. Part 4 of the DBP Act remains the current law. When Part 8 of the new Act commences, section 179 will impose the replacement duty on a person carrying out construction work.

That person must exercise reasonable care to avoid economic loss caused by defects in or related to the building. The duty is owed to the owner and each subsequent owner; it cannot be delegated or contracted out of.

Much of the familiar scope is retained. “Construction work” includes design, construction, alteration, repair,

renovation, protective treatment, manufacture or supply of building products, and supervision, coordination, project management or other substantive control. Manufacturers and suppliers are already within the current DBP Act duty; their express inclusion is therefore continuity, not a new 2026 expansion. Transitional rules will still matter for work and claims spanning commencement.

Dispute resolution: Watch this space!

The Act amends the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 to require regulations to establish a dispute-resolution scheme by 31 December 2026. That is a regulation-making requirement; it does not itself say that Building Commission NSW must set up the scheme. The design and operation of the scheme will depend on the regulations and implementation work, so watch this space.

Key Takeaways

There is no need to redesign current compliance systems today. There is, however, value in preparing early:

- Continue to comply with the system already in place but start to identify projects likely to remain under construction through 2027 and monitor how the transitional regulations will treat them.
- Review contracts that use current statutory terms, particularly “construction certificate”, “occupation certificate”, “registered practitioner” and “regulated design”. Get ahead of the curve to amend them now so they are ready to deploy when the new processes come into effect.
- Start to transfer design, variation, inspection and compliance records in a form that can move into the new digital approval framework.
- For modular or prefabricated projects, begin reviewing supply-chain responsibility, product documentation and Building Code evidence.
- For dispute resolution – well, watch this space!

Construction Legal will continue to monitor the rollout and provide updates as commencement dates and regulations are released.