



27 August 2025

Ms Talina Drabsch
NSW Legislative Council's Public Accountability and Works Committee
pawc@parliament.nsw.gov.au

Re: Review into the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 and related draft government bills.

Dear Ms Drabsch

Thank you for the extra time to survey our members for this submission. The response was encouraging; we received 73 detailed submissions from practices ranging from sole operators to large firms across metropolitan and regional NSW, with members providing comprehensive feedback on both the DBP Act and NSW Planning Portal operations.

As the peak body representing architectural business interests, the Association of Consulting Architects (ACA) is well-placed to contribute to this vital reform process. We represent 260 practices with 2,050 staff across NSW, while our Regional Architecture Association (RAA) colleagues represent 215 individual members, mostly small practice directors outside Sydney. Together, we offer comprehensive statewide perspectives on how regulations affect practices of all sizes and locations.

We acknowledge that the Legislative Council Committee's expanded inquiry terms now include potential legislative proposals to repeal both the DBP Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020. Along with the NSW Planning Portal, these mechanisms were designed to streamline the construction sector's complex regulatory landscape while enhancing building quality and consumer protection.

However, despite good intentions, both the DBP Act and the Planning Portal have generated significant unintended consequences, undermining business productivity, exacerbating the housing crisis, and increasing consumer costs. Our member survey reveals these systems are achieving outcomes opposite to their original intent. This submission presents evidence-based recommendations to restore their effectiveness while addressing the substantial problems currently impacting practitioners and the communities they serve.

For clarity, our submission is structured as follows:

- Critical Issues Requiring Immediate Action (key issues and priority recommendations)
- DBP Act Analysis (detailed challenges and reform opportunities)
- NSW Planning Portal Analysis (technical and process improvements needed)

We thank you for the opportunity to make this submission and welcome further engagement to assist in this important review. We are available to provide more detailed input through presentations to your committee.

Kind regards



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A. Critical Issues Requiring Immediate Action

DBP Act Impact:

- **Cost explosion:** Consultant fees approaching construction costs for small projects, with \$250,000+ additional costs reported for simple additions
- **Housing delivery crisis:** Developers abandoning apartment projects for townhouses; good builders and consultants refusing DBP work
- **Disproportionate scope:** Multi-generational housing and minor renovations caught under identical requirements as major developments
- **Regional disadvantage:** Limited qualified practitioners forcing metropolitan rates for regional projects
- **Administrative burden:** Documentation phases requiring three times previous time investment with unclear stopping points

Portal System Failure:

- **Technical dysfunction:** Regular crashes, freezing, and timeouts disrupting daily business operations
- **Productivity loss:** Half-day minimum lodgements replacing 3-hour processes
- **Poor design:** Rigid, unintuitive interface built on inflexible Pegasus software serving all application types inadequately
- **Communication breakdown:** Practitioners bypassing portal for direct council contact due to system failures
- **BASIX integration collapse:** Previously functional system now plagued with circular errors and data loss

Priority Reform Recommendations

DBP Act Immediate Reforms:

1. **Scope restriction:** Limit to strata-titled buildings only; exclude developments under 3 storeys/4 units
2. **Process differentiation:** Create simplified pathways for renovations versus new construction
3. **Registration streamlining:** Eliminate double registration for architects; recognise existing ARB credentials
4. **Documentation rationalisation:** Establish clear minimum standards and stopping points
5. **Timeline realism:** Allow reasonable variation lodgement periods during construction
6. **Liability rebalancing:** Return personal liability to corporate entities; address builder responsibility gaps

Portal System Reform:

1. **Complete redesign:** Replace current system with purpose-built, modern platform designed by actual users
2. **Performance standards:** Implement rapid load times and reliable functionality essential for business operations
3. **Workflow logic:** Create intuitive step sequences and separate pathways for different application types
4. **Data efficiency:** Enable information copying between related applications and eliminate repetitive entry
5. **Professional support:** Establish dedicated help desk with planning-literate staff and reasonable response times
6. **BASIX separation:** Return BASIX to standalone platform or completely rebuild integration

Expected Outcomes

These reforms will restore the systems' original intent while:

- Reducing regulatory burden without compromising building quality
- Enabling affordable housing delivery during the current crisis
- Supporting regional development and multi-generational housing solutions
- Improving business productivity and reducing consumer costs
- Creating functional digital infrastructure that enhances rather than hinders professional practice

Immediate reform is essential to prevent further damage to housing delivery, business viability, and consumer interests.

B. DBP ACT: KEY CHALLENGES IDENTIFIED

The DBP Act requires substantial reform to achieve its original objectives while addressing the significant unintended consequences currently undermining business productivity and exacerbating the housing crisis. Our members' experiences demonstrate that well-intentioned legislation has created excessive regulatory burden without corresponding building quality improvements. We urge the Committee to consider these recommendations as essential steps toward creating a more effective, proportionate, and commercially viable regulatory framework that truly serves the interests of consumers, practitioners, and the broader community.

1. Documentation and Process Burden

Core Issues:

- Clients lack awareness of the documentation standards required under the DBP Act
- Excessive documentation requirements disproportionately impact small projects (apartment fit-outs, single wall removals)
- Identical documentation standards applied to minor renovations as major multi-storey developments
- Complex Section 4.55 variation processes during construction
- Unrealistic 1-2 day timeframes for lodging construction variations
- Significantly increased documentation time compared to pre-Act requirements

2. Registration and Professional Qualifications

Core Issues:

- Prohibitive registration costs for sole practitioners
- Duplicative registration requirements for architects already registered with ARB
- Questionable experience determination processes across building classes
- Discriminatory barriers preventing businesses from transitioning to Class 2 work
- Absence of pathways for new practitioners to gain the required experience
- Onerous CPD requirements with limited course availability and high costs
- Discrimination against married professionals. Many practitioners operate under their pre-marriage maiden names. These surnames are not recognised for registration under the DBP ACT.

3. Financial and Liability Concerns

Core Issues:

- Excessive compliance administration costs and fees
- Consultant costs are approaching construction costs on small projects
- Disproportionate personal liability for architects without corresponding requirements for other professionals
- Developer liability gaps exist despite their project control and cost-cutting practices
- Increased NSW consultant costs compared to other states
- Professional indemnity insurance complications and cost increases
- Unclear personal liability definitions create practitioner uncertainty

4. Industry Coordination Problems

Core Issues:

- Builders deviating from approved plans, then demanding retrospective documentation amendments
- Poor consultant coordination and missed timeframe commitments
- Inconsistent NCC interpretation and application by PCAs
- Excessive PCA documentation demands and performance solution requirements
- Restrictive council design changes and approval conditions
- Regional consultant and construction team shortages
- Many consultants are refusing DBP work due to business cost implications
- Difficult sourcing of Vertical Transport Practitioners due to onerous obligations

5. Scope and Application Overreach

Core Issues:

- Act extends beyond the original residential strata protection intent
- Inappropriate application to developments under 3 storeys and 4 units
- Identical requirements for granny flats and major apartment developments
- Inadequate heritage building alteration guidance
- Scope uncertainty with changing Class requirements (Class 2, then 3 and 9c)
- Unfair capture of multi-generational housing and simple 2-storey developments

6. Construction Industry Impact

Core Issues:

- Building practitioners making unauthorised design changes during construction
- Builder non-compliance with NCC requirements despite DA approval
- Builder refusal to tender DBP work, citing unreasonable delays
- Builder withdrawal from Class 2 construction due to risks and costs
- Regional builder industry exodus due to complexity
- PCA reluctance to undertake DBP work
- Architect exclusion from the construction phase input

7. System and Implementation Failures

Core Issues:

- Inadequate Building Commission guidance when issues arise
- Confusing multiple limitation periods creates unnecessary legal costs
- Overlapping legislative changes with ongoing PAWC review
- Act preventing rather than improving apartment development
- System perceived as paperwork collection with minimal construction quality improvement
- Chronic uncertainty from complicated nested regulations
- Affordable housing prevention despite the government housing crisis goals
- Implementation guidance limitations requiring 'on-the-job' learning

8. Broader Industry Consequences

Core Issues:

- Developer shifts from apartments to townhouses
- Regulatory burden exacerbating housing crisis
- Disproportionate regional impact due to limited consultant availability
- Increased approval costs for simple internal changes
- Multi-generational housing solution barriers
- Innovation and quality housing delivery discouragement

B. REFORM OPPORTUNITIES AND RECOMMENDATIONS

1. Scope and Application Reform

Priority Recommendations:

- Remove or create simplified pathways for small works and renovations
- Restrict scope to strata-titled (Class 2) buildings exclusively
- Exclude developments under 3 storeys and 4 units (align with SEPP Housing 2021)
- Eliminate blanket Class 2 building requirements
- Create distinct categories for renovations/alterations versus new construction
- Exclude attached granny flats from apartment building treatment
- Provide low-rise exceptions for multi-generational housing
- Remove 2-3 storey multi-residential from Class 2 classification
- Defer Class 3/9c expansion and remediation work inclusion
- Exclude refurbishment and repairs/maintenance from Act coverage

2. Registration and Professional Recognition Reform

Priority Recommendations:

- Eliminate double registration and fees for architects
- Recognise ARB registration and CPD as sufficient for DBP Act compliance
- Establish pathways for new practitioner experience acquisition
- Recognise professionals pre-marriage trading names
- Develop bridging courses for experienced practitioners
- Improve collaborative experience and recommendation recognition

3. Process and Administrative Streamlining

Priority Recommendations:

- Synchronise all limitation periods into unified timeframes
- Delay major legislative changes until PAWC review completion
- Simplify legal exposure frameworks
- Reduce administrative paperwork burden
- Streamline DCD processes
- Develop comprehensive step-by-step guidance
- Provide clear minimum documentation requirement guidelines
- Improve DBPA and Certifying Authority coordination
- Include post-DA design development mechanisms without Section 4.55 requirements

4. Documentation and Technical Standards Enhancement

Priority Recommendations:

- Clarify declaration requirements versus exemptions
- Create detail libraries for wet areas and fire-rated penetrations
- Improve defect library organisation with photographic examples
- Establish approved waterproofing and fire rating product provider lists
- Increase waterproofing consultant's responsibility and liability
- Mandate NCC application training for compliance review personnel
- Develop DBP Act Quality and Compliance check guidelines/proformas
- Create form completion information sheets and process overview charts
- Develop regulation-embedded dropdown templates
- Provide diagrammatic building methodology requirement information

5. Industry and Professional Integration Improvement

Priority Recommendations:

- Include all DBP process consultants in relevant discussions
- Focus CC process document flow on information rather than legal coverage
- Ensure lift manufacturer engagement of in-house VT Practitioners for regulated designs
- Improve PCA, BCA, and access consultant training
- Enhance alignment with existing building regulations
- Maintain architect's traditional superintendent roles
- Emphasise building skills and site experience over paperwork

6. Cost and Commercial Reality Alignment

Priority Recommendations:

- Address fee implications and market acceptance of increased costs
- Consider commercial reality in documentation requirements
- Establish specific minimum requirements rather than open-ended obligations
- Define commercially viable detailing requirement endpoints
- Reduce consultant costs and administrative burden

7. Regional and Scale-Appropriate Solutions

Priority Recommendations:

- Provide special consideration for regional conditions and limited specialist availability
- Apply differentiated requirements based on project scale and complexity
- Address the tendency for metro consultants to over-engineer regional projects
- Review and reduce excessive specialist consultant requirements
- Address travel costs and metro rates for regional projects

8. Training and Education Enhancement

Priority Recommendations:

- Introduce tutorials and upskilling for developers and clients
- Mandate training for compliance review space personnel
- Provide regular industry resource updates and clearer guidance materials
- Develop project type difference understanding training
- Establish early Building Commission guidance contact
- Implement comprehensive industry education programs

9. Legal and Liability Framework Reform

Priority Recommendations:

- Redefine duty of care to contracting parties rather than individuals
- Provide better real-life practice requirement guidance
- Ensure Building Commission experienced personnel are available for queries
- Remove overly onerous personal liability aspects
- Harmonise with other Acts and legislation
- Return appropriate responsibility to builders
- Review architect's self-declaration obligations

10. Implementation and Transition Management

Priority Recommendations:

- Pause Single Building Bill until PAWC report and government response
- Focus mandate on set downs and waterproofing details (addressing 90% of problems)
- Improve minor on-site variation flexibility
- Establish better practitioner transition arrangements
- Implement phased rollout based on project complexity
- Create grandfathering arrangements for existing practitioners

11. Measurement and Outcomes Focus

Priority Recommendations:

- Focus on actual building quality outcomes rather than paperwork compliance
- Address real construction defect issues rather than design documentation
- Ensure defect rectification order enforcement
- Monitor actual building quality improvement
- Conduct regular reviews and adjustment based on industry feedback.

C. ONLINE LODGEMENT PORTAL CHALLENGES AND REFORMS

The Online Lodgement Portal has become a significant barrier to efficient practice, consuming more time and resources than the manual processes it replaced. We urge the Committee to consider these recommendations as essential steps toward creating more effective and commercially viable system that truly serves the interests of practitioners, planning staff and the broader community.

Key Challenges Identified

1. Technical Performance and Reliability Issues

Core Problems:

- Regular portal freezes and crashes disrupting workflow
- Extremely slow loading times causing substantial productivity loss
- Applications failing to proceed despite correct information entry
- System timeouts and blank screens during critical processes
- System lockouts requiring help desk intervention
- Inability to progress paused applications when adding new material
- Upload speed issues and difficult file amendment processes
- Technical issues causing weeks or months of project delays
- Portal fee processing delays without clear user notification

2. User Interface and Navigation Deficiencies

Core Problems:

- Time-consuming and clunky interface design
- Poor user interface with difficult navigation
- Illogical step sequences prevent efficient workflow
- Confusing labelling system throughout the platform
- Unintuitive design is difficult for non-experts to use
- Frequently changing question content and order
- Rigid, convoluted Pegasus software architecture creates inflexibility

3. Data Entry and Management Inefficiencies

Core Problems:

- Repetitive data entry requiring identical information multiple times
- Each step demands repeated owner, address, and lot number entry
- Inability to delete unsuccessful lodgement attempts or started projects
- Multiple confusing prefix codes creation
- No information copying capability between DA and CC applications
- Insufficient data transfer between related applications
- Problems entering previous certificate numbers for subsequent applications
- Easier to claim DA not lodged via portal due to linking issues
- Inability to operate multiple projects simultaneously
- Unclear entry acceptance confirmation
- Persistent property address errors requiring constant verification

4. Document Management and Organisation Problems

Core Problems:

- Significant time wasted locating authority-uploaded documents
- Difficulty responding to additional information requests
- Post-CC uploads requiring document re-uploading to different locations
- Poor document organisation makes future retrieval difficult
- Absence of clear upload receipt confirmations
- Inadequate document filtering in applications
- Extremely difficult unused file deletion
- Requirement to re-upload identical documents for different certificate stages
- Confusing additional documentation upload processes without RFI requirements

5. Communication and Notification Failures

Core Problems:

- Council planners are claiming unreliable portal email delivery
- Unreliable notifications for additional information requests
- No automatic CC payment request emails requiring manual login checking
- Council manipulation of timeframes through portal processes
- Cumbersome portal communication systems
- Practitioners bypassing portal for direct council/certifier email contact
- Communication method duplication creating inefficiency
- Unclear requirement and timing notifications

6. Inadequate Help and Support Systems

Core Problems:

- Inability to progress when completion requirements are unclear
- Excessive help-line response times
- Portal staff are unable to provide appropriate technical answers
- Conflicting advice from customer service representatives
- Staff unfamiliarity with basic planning terminology
- System workaround suggestions indicating fundamental dysfunction
- Minimum one-week response times for issue resolution

7. Application Process and Administrative Issues

Core Problems:

- Application rejections for minor errors are addressable by phone
- Council misuse of the "return" function, avoiding proper acceptance/rejection decisions
- Legally questionable application "return" practices
- Two-month acknowledgment delays for applications
- Requirement for General Manager correspondence to obtain invoices
- Trivial information requests are causing entire process delays
- Elaborate council "complete application" requirements
- Identical lengthy processes regardless of application complexity
- Unacknowledged applications requiring follow-up
- Slow loading between completed and active work sections
- Multiple refresh requirements for section access

8. Fee and Payment Complications

Core Problems:

- Additional portal fees are creating extra platform charges
- Accumulating significant lodgement fees
- Portal fee requirements even when councils waive their fees
- Time waste on fee payments and client invoice preparation

9. Specific Functionality Deficiencies

Core Problems:

- Very poor BASIX integration with extreme slowness since portal migration
- BASIX platform deterioration compared to standalone functionality
- BASIX circular errors and data loss issues
- Inability to modify glazing without affecting other window settings
- Inappropriate NABERS requirements for residential applications
- Portal failure to recognise building class exemptions
- DBP Act process triggering for exempted projects
- Non-functional back button sending users to the beginning

10. Business Impact and Operational Consequences

Core Problems:

- Half-day minimum lodgements replacing 3-hour processes
- More time-consuming than face-to-face council lodgements
- Severe business operation impacts from delays
- Multi-month project holds due to technical issues
- Weekly productive hour losses for professional architects
- Inefficiency compared to pre-portal methods
- Additional bureaucratic layers slowing processes
- Administrative burden without corresponding benefits

Reform Recommendations

1. Complete System Transformation

Priority Actions:

- Conduct comprehensive system modernisation and streamlining
- Redesign the website with actual user input and experience
- Develop a cleaner, faster platform from usability and IT perspectives
- Consider a complete platform replacement rather than modification

2. User Interface and Experience Enhancement

Priority Actions:

- Implement user-friendly navigation with intuitive design
- Provide simple instructions and explanations for each step
- Improve document filtering and organisation systems
- Create modern interface design eliminating instruction manual requirements
- Establish clear upload receipts and confirmation systems
- Replace confusing prefix codes with clear reference systems

3. Performance and Reliability Improvements

Priority Actions:

- Significantly improve system speed and loading times
- Ensure rapid load times essential for business operations
- Fix reliability issues eliminating freezing and crashing
- Guarantee consistent system functionality
- Reduce waiting times through better performance optimisation

4. Process Simplification and Streamlining

Priority Actions:

- Simplify overall application processes
- Implement building type identification for streamlined pathways
- Display only relevant data for selected building classes
- Reduce overall question requirements
- Create separate pathways for simple versus complex applications
- Establish specialised teams for different application types
- Differentiate processes for alterations/additions versus new construction

5. Data Management and Integration Solutions

Priority Actions:

- Enable simultaneous multiple project operation
- Allow information copying across related applications
- Pre-populate information from previous applications
- Improve DA > CC > OC application linking
- Create CC applications from approved DAs without re-entry
- Allow additional documentation uploads without RFI requirements
- Implement electronic data pre-filling capabilities
- Eliminate repetitive information requirements
- Enhance related certificate process integration

6. Support and Communication System Improvements

Priority Actions:

- Establish dedicated help desk for prompt lodgement issue resolution
- Reduce live support wait times significantly
- Implement proper staff training for accurate advice provision
- Ensure staff understanding of basic planning terminology
- Deliver consistent customer service advice
- Implement better notification systems with automatic alerts
- Create transparent information tracking including upload times
- Establish clear communication about application status and requirements

7. BASIX Integration and Functionality Fixes

Priority Actions:

- Separate BASIX from planning portal or completely rework integration
- Restore BASIX functionality to pre-integration performance levels
- Fix BASIX tool speed and error issues
- Eliminate circular errors and data loss problems
- Consider returning BASIX to standalone platform

8. Fee Structure and Payment Reforms

Priority Actions:

- Eliminate \$40 portal fees entirely
- Remove additional fee layers and double-charging
- Streamline payment processes
- Reduce unnecessary financial barriers for users

9. Technical Architecture and Security Enhancements

Priority Actions:

- Implement multi-user access within organisations
- Enable safe staff access delegation
- Improve personal information security
- Allow deletion of unsuccessful attempts and started projects
- Fix linking between related applications
- Enable progression for paused applications
- Implement functional back button capability
- Develop better error handling and recovery systems

10. Training, Education, and User Engagement

Priority Actions:

- Include portal designers in architect consultation sessions
- Develop comprehensive training materials and guidance
- Create practical application-focused user training
- Incorporate regular user feedback into improvements
- Ensure industry professional input in portal design decisions

11. Integration and Coordination Improvements

Priority Actions:

- Enhance integration with council and certifier systems
- Develop single platform approach eliminating multiple systems
- Create seamless connections between approval stages
- Implement better integration with related processes

12. Alternative and Innovation Approaches

Priority Actions:

- Investigate successful systems like PlanSA (South Australia)
- Research UK and international best practice precedents
- Consider private sector efficiency models
- Develop custom purpose-built platform rather than retrofitted solutions
- Explore AI capabilities for data pre-filling
- Implement chatbot assistance similar to educational institution models
- Focus on outcomes-based approach rather than process compliance

End of Report

Survey Demographics

Total Participants

- 73 Professional Membership
- ACA Members: 47 (64%)
- Non-ACA Members: 26 (36%)
- RAA Members: 27 (37%)
- Non-RAA Members: 46 (63%)

Practice Size Distribution

- 1-5 employees: 31 practices (42%)
- Sole Practitioner: 20 practices (27%)
- 6-10 employees: 10 practices (14%)
- 11-20 employees: 5 practices (7%)
- 50+ employees: 4 practices (5%)
- 21-30 employees: 2 practices (3%)

Regional Distribution (*participants can work in multiple regions*)

- Metro South: 40
- Metro North: 36
- Southern: 23
- Northern: 23
- Western: 19
- Hunter: 17

Glossary of Terms

ACA: Association of Consulting Architects

BASIX: Building Sustainability Index

BCA: Building Code of Australia (part of NCC)

CC: Construction Certificate

CPD: Continuing Professional Development, a requirement for ongoing professional registration

DA: Development Application

DCD: Design Compliance Declaration (DBP Act)

DBP Act: NSW Design and Building Practitioners Act

IT: Information Technology

LMR: Low to Medium Rise housing policy

NABER: National Building Energy Regulation

NCC: National Construction Code.

OC: Occupation Certificate

PAWC: Public Accountability and Works Committee

PCA: Primary Certifiers Association

RAA: Regional Architecture Association

RFI: Request for Information

s4.55: Specific part of the NSW Building Act, required application to modify an application

UI: User Interface

VT: Vertical Transport