

## Single apartments within a Class 2 building

Many members have expressed there is a lack of clarity around the requirements relating to a **single apartment within a Class 2 building** which is undergoing renovation impacting on a building element such as structure. Please find below clarification of this issue by the Fair Trading policy team:

The *Design and Building Practitioners Act 2020 (DBP Act)* requires registered design practitioners to prepare and make declarations for designs if they are a regulated design. A “regulated design” is a design for a building element or performance solution for a class 2 building or a building with a class 2 part. A building element includes the following:

- fire safety systems for a building within the meaning of the Building Code of Australia, including passive fire
- waterproofing
- building structure (internal or external load-bearing component of a building that is essential to the stability of the building, or a part of it (including but not limited to in-ground and other foundations and footings, floors, walls, roofs, columns and beams)
- component of a building that is part of the building enclosure (means the part of the building that physically separates the interior environment of the building from the exterior environment, including roof systems, above grade and below grade walls (including windows and doors)
- building services (mechanical, plumbing and electrical) required to achieve compliance with the Building Code of Australia.

Building elements are considered important as they are likely to have a greater impact on the safety and quality of construction in a building. Where building work on a building element is carried out on one part of a building, it could impact other parts of the building.

Many fit outs or renovations to sole-occupancy units **will not require** regulated designs **if they do not involve performance solutions or building elements**. There are also **exclusions** to building work under clause 13 of the DBP Regulation that mean the work is not subject to the DBP Act.

If the building work is subject to an exclusion under clause 13 or does not involve a building element or performance solution, regulated designs are not required for the work and the work does not require practitioners who are registered under the scheme to carry out the design work.

For example, work conducted for the fit-out of part of a building that is a class 5 or 6 building part, or will be a class 5 or 6 as a result of a change of building work connected with the work, is excluded under clause 13(k) of the DBP Regulation. However, for the exemption to apply, the work must be the subject of a development consent that primarily relates to the fit-out and must not relate to a structural component of the building. Structural work for a fit out will continue to be subject to the reforms.

There is also an exclusion under clause 13(1)(b) of the DBP Regulation for waterproofing work but only if the following apply: —

- (i) the work is carried out as a result of alterations to a bathroom, kitchen, laundry or toilet, and
- (ii) the alterations are carried out as exempt development, and
- (iii) the work, including the agreement to carry out the work, relates only to a single dwelling.

Therefore, a fit out may not require regulated designs if it involves, for example, partition walls that are not load bearing, floor coverings unrelated to waterproofing or lighting that is not emergency lighting and loose/fixed furniture.

Where work involves building elements, such as structural work or fire safety systems, a registered design practitioner who is authorised to prepare such a design will need to prepare this aspect of the design and make the declaration. Architects who are ineligible for registration under the DBP Act and have projects requiring building elements or performance solutions may need to commission or work with registered practitioners to prepare and declare those designs and carry out that part of the work, **for example, a registered design practitioner registered in the class of structural engineering**. This practitioner is limited to declaring regulated designs within the scope of their registration.

**To further clarify:** Should the work on a single apartment in a class 2 building (or building with a class 2 part) involve a building element which requires preparation of a regulated design, an architect who is ineligible to register as a design practitioner – architectural may rely on a registered design practitioner such as a registered design practitioner in the class of structural engineering to make a design compliance declaration for the relevant construction issued regulated designs for the loadbearing building element. For example: should a load bearing wall need to be moved, a registered design practitioner in the class of structural engineering may prepare the regulated design and design compliance declaration for this building element part of the work and refer to the architect's documentation on the design compliance declaration. There may be no need for a design practitioner – architectural to be involved.

This enables currently ineligible architects to gain experience in class 2 buildings which counts towards their required experience for eligibility as a design practitioner – architectural.