

## CPD Webinar series

# STRENGTHENING COMPLIANCE CULTURE IN THE ARCHITECTURE SECTOR

**Webinar 3: Are you meeting your duties to  
the public?**

**Dr Matthew Bell** | Melbourne Law School

**Natasha Stojanovich** | Lander & Rogers

**Wendy Poulton** | Planned Cover

**Daniel De Sousa** | Dart Legal & Consulting

**ā rbv**

Architects  
Registration Board  
of Victoria



# Acknowledgment of Traditional Owners

*This presentation is being delivered on the lands of the Wurundjeri People and I wish to acknowledge them as Traditional Owners.*

*I would also like to pay my respects to their Elders, past and present, and Aboriginal Elders of other communities who may be here today.*



# CPD Questionnaire

- Attending this webinar live and submitting this form will qualify you for 1 hour formal CPD.
- Certificates will be sent to the email address used to complete this form, please ensure your name and contact details are correct.
- This form will close 24 hours after the webinar has commenced.
- Certificates will be issued within 1 week of the closure of the quiz.

<https://forms.office.com/r/6GMc3AdXS2>

ARBV CPD Webinar Quiz - Are you meeting your duties to the public?



# ABOUT THE REPORT

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A row of seven light-colored wooden blocks is arranged horizontally in the foreground, spelling out the word 'CULTURE'. Each block has a single letter printed on its top face. The blocks are slightly rounded and have a natural wood grain. In the background, a larger, out-of-focus pile of similar wooden blocks is scattered, suggesting a collection of letters or a word-building activity. The background is a plain, light-colored surface.

# Background

- › Catalyst for report:
  - › Reports by ARBV and NSW ARB on Systemic Risks in the Architecture Sector (2022 and 2024)
  - › CSV Reports on Compliance in Building Design and Non-cladding Defects on Class 2 Buildings (2024)
  - › Shergold-Weir Building Confidence Report (2018)
- › Importance of regulatory oversight of sectoral culture:
  - › Financial Services Royal Commission
  - › Identifying and addressing root cause(s) of non-compliance
  - › Avoiding harm to clients, users and the profession

# Objectives

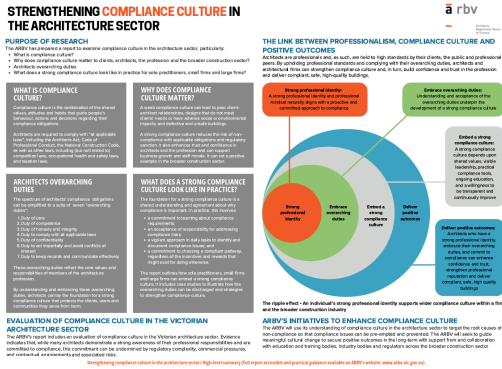
- To clarify what compliance culture is and why a strong compliance culture is important
- To identify overarching duties owed by architects that underpin a strong compliance culture
- To improve understanding of the current compliance culture within the Victorian architecture sector
- To provide practical guidance for architects to strengthen compliance culture
- To identify regulatory tools that can be used to enhance compliance culture
- To highlight the tangible actions that can be taken by architects, the ARBV and other relevant sectoral participants and regulatory bodies to strengthen compliance culture in the architecture sector and the broader construction sector

# Outputs

**REPORT ON STRENGTHENING COMPLIANCE CULTURE IN THE ARCHITECTURE SECTOR**

**1 - PAGE HIGH-LEVEL SUMMARY**

**BOOKLET CONTAINING PRACTICAL GUIDANCE FOR ARCHITECTS AND ARCHITECTURAL FIRMS**



**STRENGTHENING COMPLIANCE CULTURE IN THE ARCHITECTURE SECTOR**

Practical guidance for architects and architectural firms\*

\*This document supplements the ARBV's report on "Strengthening Compliance Culture in the Architecture Sector". It is for guidance only and should not be relied upon as legal advice.

# KEY CONCEPTS

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- Compliance culture is the combination of shared values, attitudes and habits that guide behaviour, actions and decisions

### **What is compliance culture?**

- A strong compliance culture can reduce compliance risk, but also enhances trust and confidence in the profession. It can set a positive example for the broader construction sector

### **Why does compliance culture matter?**

### **How can compliance culture be strengthened?**

- By understanding and embracing their “overarching duties”, architects can lay the foundation for a strong compliance culture

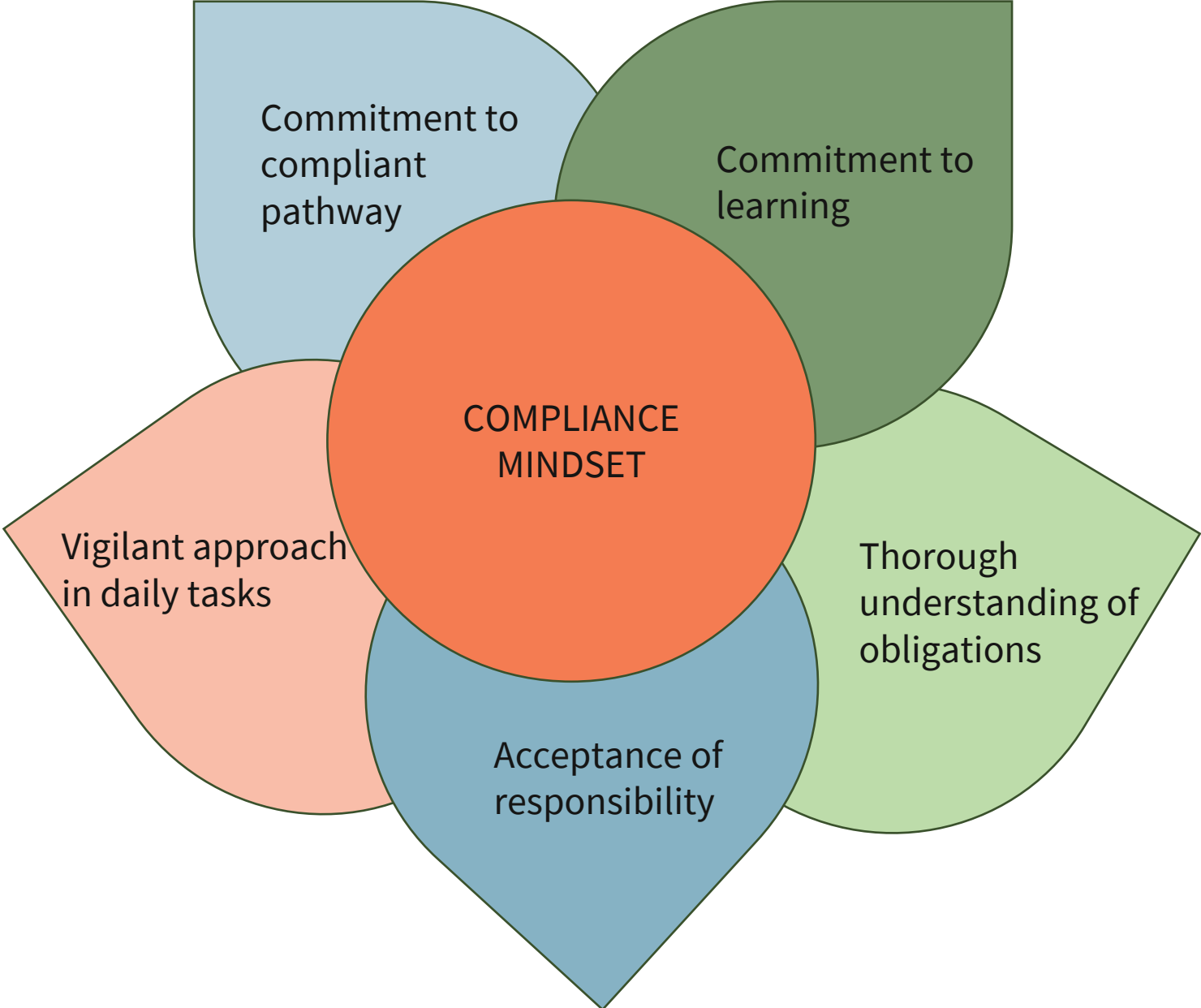
### **What does a strong compliance culture look like in practice?**

- The foundation for a strong compliance culture is a shared understanding and agreement about why compliance is important

# Compliance mindset vs compliance culture



# Elements of a compliance mindset



OVERARCHING DUTIES

SOCIAL  
CONTRACT

ACT,  
REGULATIONS &  
CODE OF  
PROFESSIONAL  
CONDUCT

COMMON LAW

1

Duty of care

2

Duty of competence

3

Duty of honesty and integrity

4

Duty to comply with all applicable laws

5

Duty of confidentiality

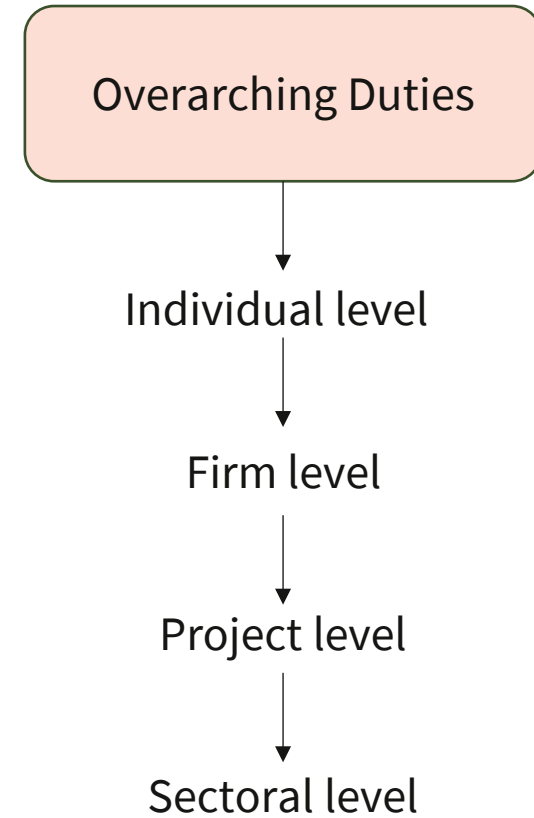
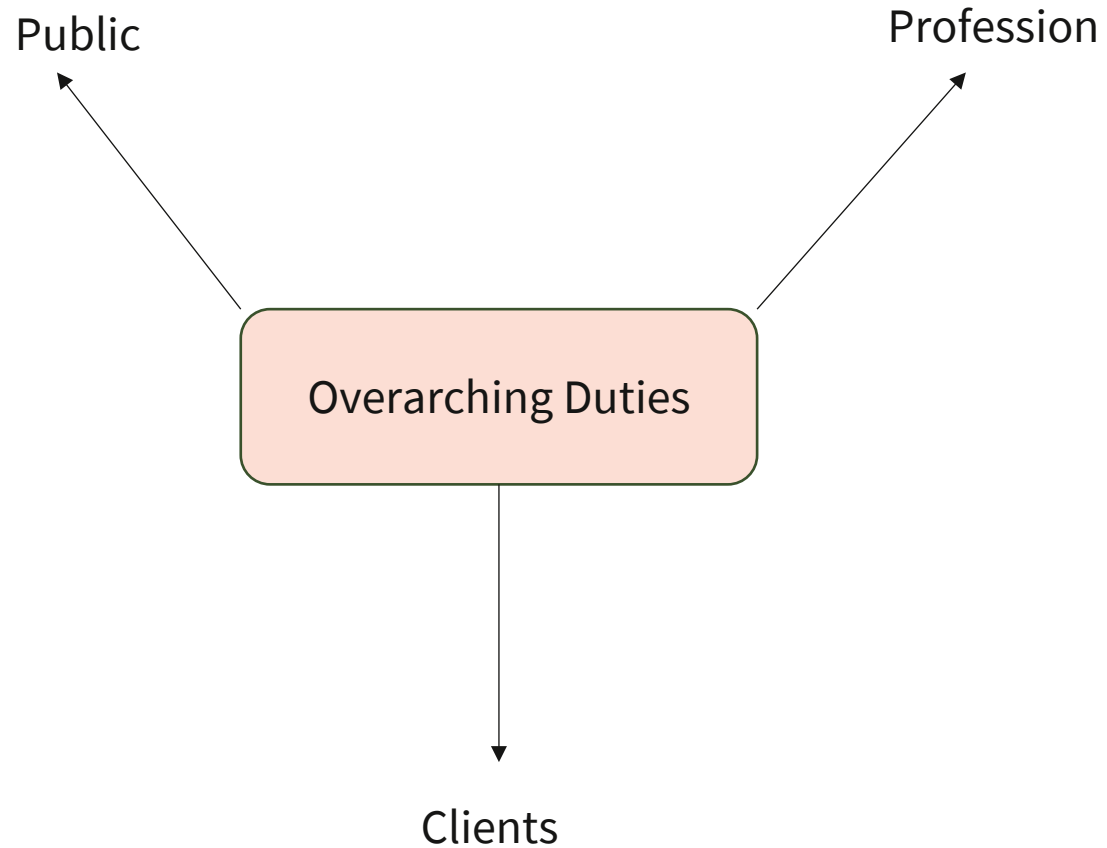
6

Duty to act impartially and avoid conflicts of interest

7

Duty to keep records and communicate effectively

# Practical application of overarching duties



# SOLE PRACTITIONERS AND SMALL FIRMS

|    |                                       |   |
|----|---------------------------------------|---|
| 1  | Understand your unique culture        | <ul style="list-style-type: none"> <li>Reflect on how your personal values, knowledge, and circumstances shape your approach to compliance</li> </ul>                                     |
| 2  | Lead by example                       | <ul style="list-style-type: none"> <li>Demonstrate a strong personal commitment to compliance through everyday actions and decisions</li> </ul>   |
| 3  | Practise self-discipline              | <ul style="list-style-type: none"> <li>Apply self-discipline and good judgment to maintain compliance in all contexts, even when under commercial or time pressures</li> </ul>            |
| 4  | Stay informed                         | <ul style="list-style-type: none"> <li>Regularly participate in CPD and industry events, and access regulatory updates to stay informed about compliance obligations and risks</li> </ul> |
| 5  | Use simple compliance tools           | <ul style="list-style-type: none"> <li>Adopt practical tools like checklists and templates to manage key compliance obligations efficiently and effectively</li> </ul>                    |
| 6  | Embed compliance in practice          | <ul style="list-style-type: none"> <li>Integrate compliance risks, actions and decisions into routine workflows, project planning, and client discussions</li> </ul>                      |
| 7  | Proactively address compliance issues | <ul style="list-style-type: none"> <li>Identify and resolve compliance risks early</li> </ul>   |
| 8  | Seek external support                 | <ul style="list-style-type: none"> <li>When necessary, seek external support for guidance and assistance to ensure compliance obligations are met</li> </ul>                              |
| 9  | Learn from mistakes                   | <ul style="list-style-type: none"> <li>Analyse compliance incidents to understand root causes and prevent recurrence</li> </ul>   |
| 10 | Document work                         | <ul style="list-style-type: none"> <li>Maintain clear records of compliance decisions and actions to demonstrate accountability</li> </ul>  |

# LARGE FIRMS

|    |   |   |
|----|---|---|
| 1  | Set the tone at the top                         | <ul style="list-style-type: none"> <li>Practice owners and senior managers should champion the importance of compliance and ethical behaviour through visible actions and communications</li> </ul>     |
| 2  | Actively foster a compliant culture             | <ul style="list-style-type: none"> <li>Promote pride in the profession and reinforce the message that compliance protects clients, reputation and ensures safety and quality</li> </ul>                 |
| 3  | Implement tailored Compliance Management System | <ul style="list-style-type: none"> <li>Develop tailored policies, procedures, and systems to manage compliance risks consistently across the firm and projects</li> </ul>                               |
| 4  | Engage with staff                               | <ul style="list-style-type: none"> <li>Regularly engage with staff to ensure that they understand that compliance is a shared, collective responsibility</li> </ul>                                     |
| 5  | Clarify responsibilities                        | <ul style="list-style-type: none"> <li>Ensure that individual staff are aware of their particular responsibilities to ensure compliance, including in different project contexts</li> </ul>             |
| 6  | Provide ongoing training and education          | <ul style="list-style-type: none"> <li>Ensure that staff receive ongoing training so that they understand compliance expectations and how to manage compliance and ethical risks in practice</li> </ul> |
| 7  | Promote openness and transparency               | <ul style="list-style-type: none"> <li>Create a supportive environment where staff feel comfortable and safe to raise compliance concerns</li> </ul>  |
| 8  | Establish reporting mechanism                   | <ul style="list-style-type: none"> <li>Establish formal mechanisms and, where appropriate, confidential channels, to report compliance issues</li> </ul>  |
| 9  | Incentivise compliance                          | <ul style="list-style-type: none"> <li>Link staff performance reviews and recognition programs to compliant behaviour</li> </ul>  |
| 10 | Continuously improve                            | <ul style="list-style-type: none"> <li>Regularly review policies, conduct risk assessments, and adapt systems based on compliance incidents and lessons learned</li> </ul>                              |

# ARCHITECTS' DUTIES TO THE PUBLIC

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A row of seven light-colored wooden blocks is arranged horizontally in the foreground, spelling out the word 'CULTURE'. Each block has a single letter printed on its top face. The blocks are slightly blurred at the edges. In the background, a larger, out-of-focus pile of similar wooden blocks is scattered across the white surface.

# Duties to the public in the Code

## 3 Act in the public interest

- (1) When carrying out work, an architect must take all reasonable steps to protect the health and safety of people.
- (2) An architect has a responsibility, where possible, to act in accordance with the public interest and to give proper consideration to the—
  - (a) natural environment; and
  - (b) conservation of cultural heritage, including Aboriginal cultural heritage; and
  - (c) conservation of natural resources.

DR MATTHEW BELL

C U L T U R E

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Legislation  
(including  
NCC)

Limited  
knowledge

Commercial  
and cultural  
pressures



Contract  
and other  
legal norms

in interest  
(vs  
altruism?)

# Building and Plumbing Administration and Enforcement Act 2026

(Vic)

- Royal Assent 19 May 2026; to come into force upon Proclamation (or by 1 December 2027)



## 6 Building system objective

The objective of the **building system** is to promote and protect the health and safety of building occupants and the public—

- (a) by the design, construction, installation and commissioning of **buildings**, **building work** and plumbing work that comply with, and the testing and maintenance of buildings, building work and plumbing work to ensure that they comply with—
- (i) **building and plumbing standards**; and
  - (ii) **building legislation**; and
- (b) by the oversight and regulation of these activities by **building system regulators**.

Defined in **Act (coming up)**; definition in **Building Act 1993 (Vic)**

# *Building and Plumbing Administration and Enforcement Act 2026*

## **(Vic)**

### **11 Requirement to have regard to building system objective and entity-specific objectives**

- (1) A person, in performing a function or exercising a power under building legislation, must have regard to the building system objective.
- (2) In addition, an entity, in performing a function or exercising a power under building legislation, must have regard to any entity-specific objective of the entity.
- (3) The Parliament does not intend by this Part to create in any person any legal right or to give rise to any civil cause of action.

*Also:*

*Section 33(e): Secretary* ‘to represent the interests of the State (having regard to the building system objective) when engaging with the Commonwealth, another State or a Territory’

*Section 38(1)(z)(ii): (Building and Plumbing) Commission* ‘to report to the Minister and Secretary on the extent to which the Commission is achieving... the building system objective’  
*and must be taken into account in building industry structuring orders (s 437(1)), including duty to have regard to BSO for ‘previous building industry bodies’ (s 439(2)(d))*

# *Building and Plumbing Administration and Enforcement Act 2026*

## **(Vic)**

### **4 Building legislation**

(1) In this Act—

*building legislation* means—

- (a) this Act; and
- (b) the **Building Act 1993**; and
- (c) the **Domestic Building Contracts Act 1995**; and
- (d) the **Building and Construction Industry Security of Payment Act 2002**; and
- (e) any other Act, or a provision of any other Act, that is prescribed as building legislation; and
- (f) any regulations or legislative instrument made under an Act referred to in paragraph (a), (b), (c), (d) or (e).

(2) **Building legislation is to be interpreted having regard to the building system objective.**

### **5 Building system**

In this Act—

*building system* includes—

- (a) the building and plumbing industries; and
- (b) the building system regulators.

# *Building and Plumbing Administration and Enforcement Bill 2026*

## **(Vic)**

*building system regulators* includes—

- (a) the Commission; and
- (b) relevant building surveyors; and
- (c) municipal building surveyors; and
- (d) BPC-appointed inspectors; and
- (e) councils; and
- (f) the Building Appeals Tribunal; and
- (g) the Architects Registration Board of Victoria; and
- (h) the Building Monitor; and
- (i) the Business Licensing Authority; and
- (j) the Director of Consumer Affairs Victoria; and
- (k) Energy Safe Victoria;

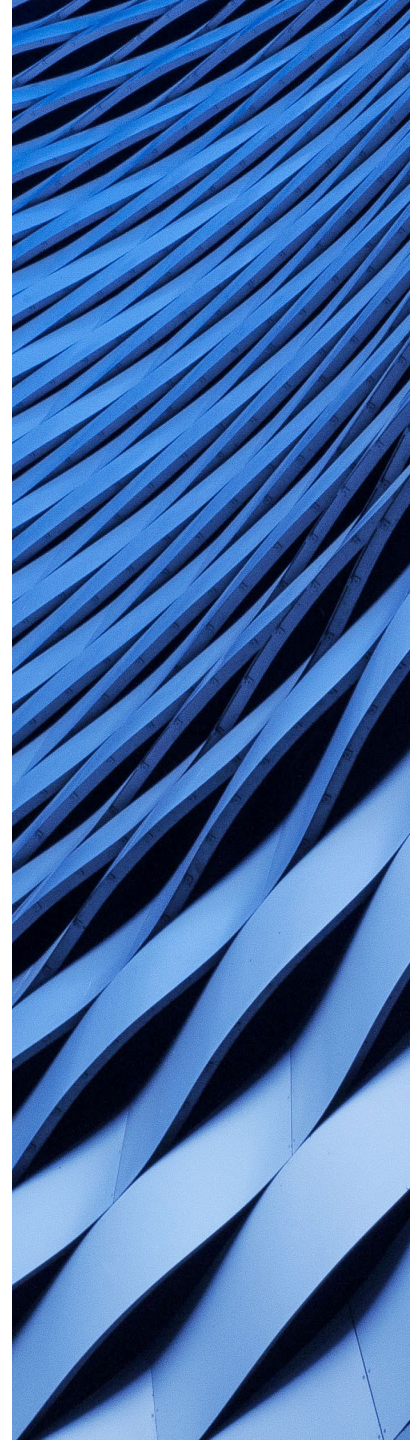
# BREACHES OF AN ARCHITECTS' DUTY TO THE PUBLIC

**Natasha Stojanovich, Partner**



**27 May 2026**

**LANDER  
& ROGERS**





**ARCHITECTS BREACHING THEIR  
DUTIES TO THE PUBLIC:  
SOME CASE STUDIES**

## BREACH OF PUBLIC DUTIES: SOME EXAMPLES

### The very obliging architect

- Client is under pressure from financiers due to project delays
- Client in turn places architect under pressure to issue certificates following monthly progress inspections – confirming progress of the works and compliance with design documentation
- Representation to client – but to who else?



## BREACH OF PUBLIC DUTIES: SOME EXAMPLES

### The very obliging architect: the impact

- Builder becomes insolvent
- Owners Corporation and individual lot owners sue the architect – alleging various construction defects / incomplete works which the architect had failed to identify



## BREACH OF PUBLIC DUTIES: SOME EXAMPLES

### The Lacrosse fire

- Architect had “signed off” on use of combustible cladding
- Consultants novated to builder
- The architect’s project fee was \$2.6M
- On 24 November 2014, fire broke out, started by a stray cigarette



## BREACH OF PUBLIC DUTIES: SOME EXAMPLES

### The Lacrosse fire: the impact

- VCAT claim against builder, surveyor, fire engineer and the architect – claim for \$12.7M
- VCAT case then the appeal
- Disciplinary prosecutions of practitioners
- Stigma, reputational impacts

| Party             | Original % liability | Revised % liability |
|-------------------|----------------------|---------------------|
| Fire engineer     | 39%                  | 42%                 |
| Building surveyor | 33%                  | 30%                 |
| Architect         | 25%                  | 25%                 |
| Tenant / LU Simon | 3%                   | 3%                  |



## BREACH OF PUBLIC DUTIES: SOME EXAMPLES

### Grand designs

- Once in a lifetime / high profile project
- Candidate to win international design award
- Specific architectural vision
- Modification of balustrades so as to not impair sight lines

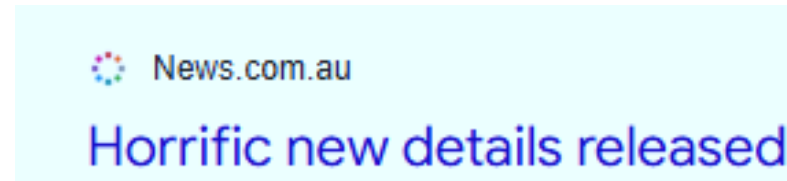


## BREACH OF PUBLIC DUTIES: SOME EXAMPLES

### Grand designs: the impact

- Post completion the project is in use
- A spectator falls over a non-compliant balustrade sustaining serious injury – impaled by decorative feature on level below
- Significant media coverage
- Reputational impacts
- Project becomes infamous due to the incident
- Civil claim against architect, building surveyor, owner of the building, the builder and the project manager

'What does it take to be classified as a death trap'

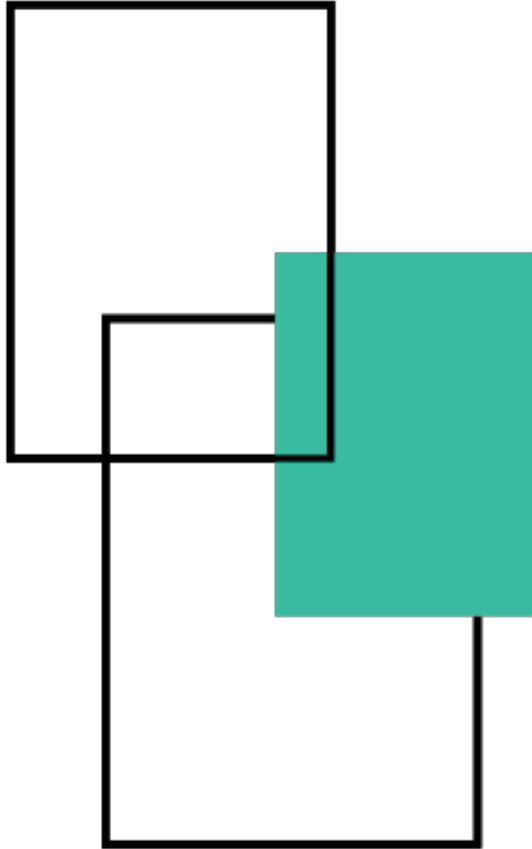


# KEY TAKEAWAYS

*Compliance culture is what bridges the gap between knowing your obligations – and acting on them in practice*

- A strong compliance culture is essential to protect: the public, the profession, and the built environment
- An architects' failure to take into account their duty to the public can have serious consequences, including:
  - Legal risk of civil suit / disciplinary action
  - Reputational damage
  - Loss of trust in the profession
  - Commercial consequences / insurance premium impact

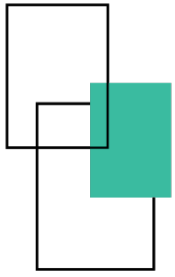




# Compliance Culture – Duties to the Public

Wendy Poulton

Manager Risk Services, *informed* by Planned Cover

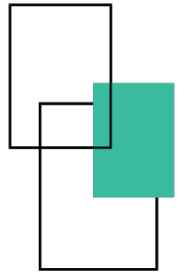


*Insurance broking and claims management through Focus Underwriting*



*Risk management advice – contract reviews and CPD*





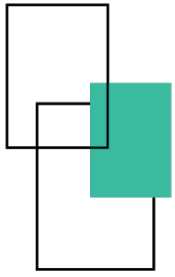
# Some causes of PI claims against architects

## Client

- Cost over-runs & fees
- Site conditions
- Delay
- Documentation errors
- Contract admin
- Waterproofing

## Public

- Personal injury
- Waterproofing
- NCC non-compliance

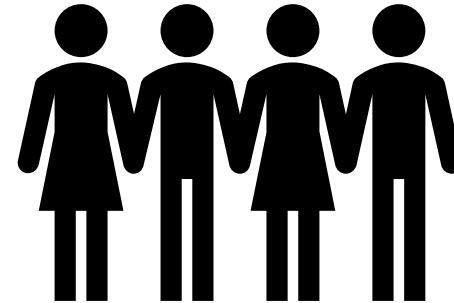


# Risk areas for duties to the public



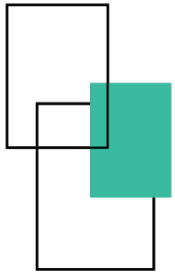
## Individuals

- Trip hazards
- Balustrades and balconies



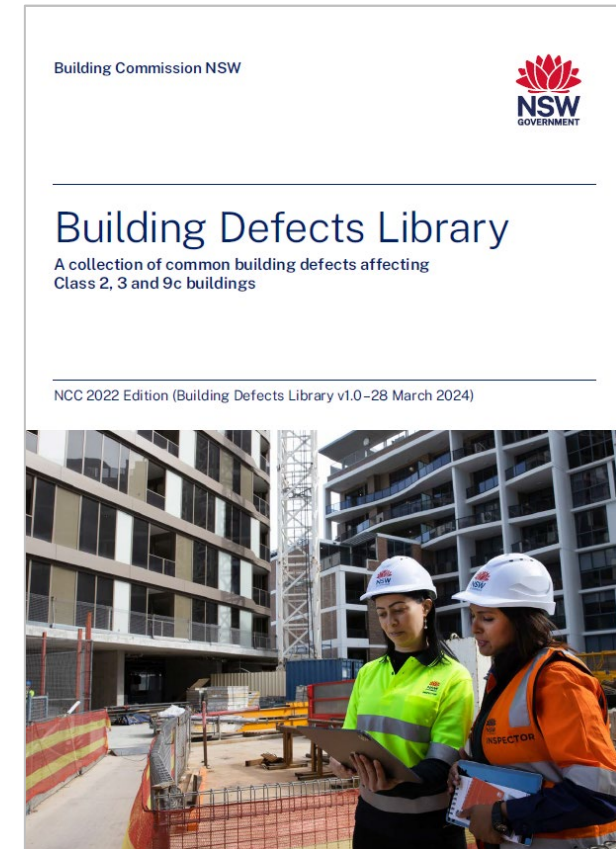
## Future owners (including owners corporations in class 2)

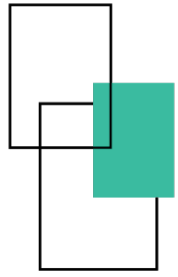
- Waterproofing
- NCC compliance (incl fire)



# Some Common Class 2 Defects

- NSW Building Commission *Building Defects Library* (August 2024)
- Class 2, 3 and 9c (but similar defects may occur in other classes too)
- Waterproofing
  - Inadequate falls on roofs and balconies and bathrooms
  - Inadequate flashings on external doors and windows
  - Membranes on roofs and balconies not turned down into drain
  - Membrane or flashing not turned up to the vertical where it meets balcony door
- Other defects
  - Unprotected services penetrations
  - Rooms without either natural or mechanical ventilation

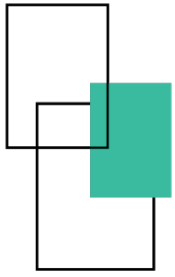




# National Construction Code

- National Construction Code (including Building Code of Australia)
  - Compliance mandatory under *Building Act*
  - Including any Australian Standards referenced in NCC
  - Meet the “deemed to satisfy” requirement
  - Or use a well-documented performance solution, approved in writing by all relevant specialist consultants
- Further information:
  - Adoption of NCC 2025: <https://ncc.abcb.gov.au/ncc-2025/ncc-2025-state-and-territory-adoption-information> (1 May 2026 in Victoria)
  - Free CPD: Building and Plumbing Commission : <https://www.bpc.vic.gov.au/practitioner-education-series>
  - Free CPD: ABCB: <https://www.abcb.gov.au/news/2026/register-now-our-free-ncc-2025-webinar-series>





This seminar and the advice contained herein is intended only as general advice in respect of risk management. It is not tailored to your individual needs or those of your business nor is it intended to be relied upon as comprehensive legal or insurance advice. For such assistance you should approach your legal and/or insurance advisors.

# CONCLUDING REMARKS

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# Key messages

- Architects occupy an important position in society because of the impact of their work on the built environment.
- Recognising this, the Code places clear obligations on architects to take reasonable steps to protect health and safety, and where possible, to consider the environment, cultural heritage, and the responsible use of natural resources.
- These duties are not merely procedural requirements. Instead, they reflect the profession's role in ensuring the wellbeing of society as a whole.
- When architects honour these duties, the result is safer buildings, stronger communities, and more sustainable long-term outcomes for the public.
- Conversely, failure to meet these obligations may constitute unprofessional conduct and result in regulatory action.

# Q&A

ARBV CPD Webinar Quiz - Are you meeting your duties to the public?



 **ā** rbv



Architects  
Registration Board  
of Victoria

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OF VICTORIA**

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