



Victoria

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Building Act 1993

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The Victorian Building Act: 30 Years Since Proclamation

This year marks the 30th anniversary of the *Building Act 1993* (Vic) proclamation in 1994, a significant milestone influenced by the National Model Building Act (NMBA), a project commissioned by the Australian Uniform Building Regulatory Co-ordinating Council (AUBRCC), the predecessor of the Australian Building Codes Board (ABCB). This article explores the significant impact these reforms have had on Victoria and highlights the role played by [Kim Lovegrove, Adjunct Professor](#) and founder of [Lovegrove & Cotton](#).

The NMBA Initiative: Modernizing Building Control in Australia

In the early 1990s, the NMBA initiative sought to create a comprehensive template for modernizing building control in Australia. The research team headed up by Kim, conducted international comparative analyses to identify and incorporate best-practice regulatory ingredients.



Model Building Act Publications

Above is a collage of model building act publications that cumulated in The Model Building Act 1991. 27,000 were distributed nationally as part of the, in all likelihood unprecedented national consultation interaction in the building industry.

Departure from Traditional Concepts

There was a departure from some traditional British-based liability concepts, including limitation periods and joint and several liability.

Although uniform adoption across Australia was not achieved, many NMBA key concepts were integrated into state and territory building acts, such as liability reforms and privatized alternatives for building permit delivery.

Key Reforms of the Victorian Building Act

1 Proportionate Liability Law Reform

Proportionate liability, designed to replace joint and several liability, introduced in section 180 of the Model Building Act and promulgated section 131 of the Victorian Building Act, aimed to distribute liability more fairly among parties involved in building projects. (Note: Section 131 was ultimately repealed and replaced with proportionate liability provisions in the Wrongs Act.)

3 10-Year Liability Capping

Established a 10-year liability cap for building practitioners.

Provided a clear approach to liability and responsibility tenure.

2 Mandatory Registration and Compulsory Insurance

Ensured only qualified and insured professionals could operate in the building industry.

This was designed to improve financial accountability of registered building practitioners to improve consumer protection.

4 Private Certification

Offered an alternative system for building permit delivery.

Expedited the process and reduced holding costs on project delivery.

Kim played a key role in the development of the Victorian Building Act and the NMBA. From policy inception to the proclamation of key reforms in the Building Act 1993, his involvement was a constant. As Assistant Director of Building in Victoria and an instructing officer to parliamentary counsel, he assisted with the drafting instructions for both acts. The reforms have left a lasting legacy. Some well known experts that are familiar with the role Kim played had this to say.

"Kim has been a prime driver in the development of modern-day building control thought leadership in certain jurisdictions in Australia. But for his involvement in the law reform in the early nineties, it is unlikely that key liability, insurance, and licensing reforms would have seen the light of day in Victoria... or anywhere else in Australia for that matter."

- Professor Robert Whittaker AM, Deputy Chair of the international thought leadership hub the IBQC and a past National President of the Australian Institute of Building

"The micro-economic reform and proportional liability agenda of the late 1980s and early 1990s took political courage to develop, and was directly connected to the subsequent economic success of Australia for the next 35 years. Those reforms would not have succeeded without champions within the public service to provide intellectual direction and challenge traditional thinking and resistance to change."

- Adjunct Professor Stephen Kip, a past director of the Building Commission and current board member of the Australian Building Codes Board (ABCB)

One such champion was John Kotsopoulos, Principal Policy Advisor Building Department of Planning 1993, who said:

"Kim's tireless and insightful work in developing the national model building act generated a rare example of political bipartisanship. I was thrilled to be part of the drafting team of the building bill and to help achieve its unanimous endorsement by the Victorian parliament."

Professor Kip also noted:

"Kim was the pre-eminent champion of those reforms within the building industry public service at that pivotal time, and continues today to be a thought-leader in that space."

Pioneering Proportionate Liability and 10-Year Liability Cap

The concept of proportionate liability, ensuring liability was based on fault, became a cornerstone of building law, encapsulated in section 180 of the Model Building Act and section 131 of the Victorian Building Act. Kim also played a key role in development of the 10-year liability cap, providing a clear timeframe for liability, benefiting both building practitioners and consumers.

Mandatory Registration and Compulsory Insurance

Raised industry standards in Victoria by ensuring only qualified and insured building professionals could practice. Established the Building Practitioners Board (now part of the Victorian Building Authority) to monitor and oversee practitioner conduct.

Before 1993:

No central registration system mandated the registration of key practitioners.

No compulsory insurance requirements.

Unless there was a solvent defendant, the consumer was at risk of not receiving recompense in legal proceedings for defective building work.

Sustainability and Longevity of the Victorian Building Act

Three decades on, the Victorian Building Act remains a cornerstone of building regulation in Victoria. The Act heralded:

- Privatized system for building permit delivery remains intact, ensuring quicker permit delivery.
- Private certification reforms have proven sustainable, despite controversy, and have expedited building permit delivery, reducing holding costs on project delivery.
- Mandatory registration and compulsory insurance have gone some way to improving industry standards.
- 10-year liability capping and proportionate liability provide a more predictable and fairer framework than the previous regime.

These core principles continue to shape Victoria's regulatory landscape, proving their sustainability and relevance.

Conclusion

The 30-year anniversary of the Victorian Building Act proclamation highlights the lasting impact of reforms inspired by the NMBA. However, the Act still needs to be updated to address contemporary challenges.

Serious consumer concerns have highlighted the need for stronger accountability, enhanced consumer protection, and rigorous enforcement. The 2012 Victorian Auditor-General's Office (VAGO) Inquiry into the Building Commission revealed that the reforms were deemed necessary to improve the regulatory framework and improve accountability. More work still needs to be done and this writer understands that important work is indeed underway under the stewardship of the VBA and the commissioner.

Reinstating the independent peer review of performance-based building designs, as featured in the Victorian Building Control Act 1984, and redesigning the NCC to introduce a risk-based building classification system with mandatory inspections are, in Kim's view, critical. When the Act was proclaimed, there was no contemplation of a performance-based building code, and it has not evolved to manage this risk effectively.

Continuing the Legacy at Lovegrove & Cotton

[Lovegrove & Cotton](#), the firm bearing his and my name, continues to uphold this legacy. As the publisher of this piece, I am dedicated to maintaining this vision by supporting the [International Building Quality Centre](#) (IBQC). Through our firm's involvement with the IBQC, the body Kim founded and chairs, our firm remains at the forefront of building law reform and continues to advocate for robust building regulations and practices internationally.



Right – Kim addressing a conference in Beijing on best practice approaches to building regulation. He was a senior law reform consultant to the World Bank. The conference was hosted by the WB and the Ministry of Finance of the Chinese government in 2019.

Left – Kim addressing the Fire Engineers Conference NZ 2023 on how to design best practice building regulation.

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Tsigereda Lovegrove is a construction and planning lawyer and the practice manager at Lovegrove & Cotton. She serves as the secretary of the Dispute Resolution Coalition of the International Building Quality Centre (IBQC) and is a member of the BDPS committee. An expert in construction law, Tsigereda is bilingual, fluent in English and Amharic, and has authored a number of articles on building regulations and compliance.

Disclaimer

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If you require legal assistance, please contact [Lovegrove & Cotton Lawyers](#), and our experienced lawyers will assist you based on the facts and circumstances of your case.