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# Management in Action

## THE PROBLEM WITH SAFETY IN DESIGN

UNDERSTANDING THE IMPACT OF OUR RESPONSE

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## THE PROBLEM WITH SAFETY IN DESIGN

*Written in support of professional designers in the construction industry in Australia.*

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### INTRODUCTION

Whenever there is a change to the rules in an industry, there's bound to be unexpected impacts. Complexities arise as some groups adjust quicker to the change than others, usually because the benefits are obvious to them and this drives change action for them. For others the benefits are not immediately apparent, in fact it may even seem quite the opposite, so it becomes difficult for them to embrace the change fully and spend appropriate resources to develop effective solutions. This ultimately creates an imbalance in that industry.

This is what has happened in the years following the introduction of the Safety in Design legislation in its current form. Many believe an imbalance was created right from the start because of the requirements of the legislation, in other words that designers were unfairly burdened.

I would like to prove to you though, that this is not true, that it was not because of unfair legislation, but mostly due to an **assumption** of an unfairness, which created certain beliefs and reactions within the industry, making it **seem** that we had to go along with processes we don't see much value in, creating a certain degree of lethargy around this topic and even more of an imbalance.

The biggest problem with this situation, is that it doesn't really serve anyone in the long run – an imbalance causes unnecessary discord, inflates risk, wastes time and money and can severely damage hard-won relationships between designers, clients, project managers and contractors. It also takes the focus away from the reason the legislation change happened in the first place, which is the safety of people interacting with what we had designed.

[Much of the problem hinges on misunderstanding.](#)

We can easily solve this, but we need to first understand the whole picture, which means we need to understand:

- Our [response](#).
- The [impact](#) our response has had.
- [The way forward](#) - how we can change things.

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### OUR RESPONSE

**So where are we at now?** As a professional designer, when you hear the words Safety in Design legislation – does your mood take a little step back? Do you worry about the time you have to spend on it while you are already so time-poor? Do you worry about where you may not have done enough on past or current projects? But then you think, you already do so much to support safety, so you feel a sense of defiance pushing to the surface...followed again by an uncomfortable worry about criminal proceedings beyond your control should something go wrong?

Or perhaps you are well set up to do safety reviews and reporting on your projects, but it's difficult to maintain consistency across all projects - you feel you're wasting your time on reams of less than useful words while your inbox grows with project queries, your calendar fills up with meetings and your valuable design and management time shrinks.

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## THE IMPACT

All the above are perfectly understandable responses, but we do have to recognise the trouble this is causing for us. I'm not one to play on fears – fearmongering does not inspire sensible change, but rather causes unhelpful knee-jerk reactions. I would much rather talk about positive goals and how we can get there, but of course we must also take an honest look at what is really going on in our industry, so we can fully appreciate the value of those positive goals.

### Record Keeping

The most obvious issue is that we're struggling to engage staff in recording Safety in Design reviews and creating reports on all projects. This means, should something go horribly wrong in future, it may be difficult to prove that we had properly discharged our duty under the legislation.

Should there be harm to people or damage to property and the Regulator investigates, you want to be able to prove that there has been a good, consistent culture of safety reviews and reporting across your projects. You want a history of a good compliance, so if you had missed something on one project, it becomes easy to prove that it was an isolated oversight, as opposed to systemic non-compliance in the practice. We need to understand that, should it be found that you had failed in your duty to comply with this statutory law, and even if the judge is lenient and the fine is low, this verdict immediately opens the door for easy civil litigation against you – in other words, should others have suffered damage or loss which they can connect to you on the same element of the particular project, their case is already as good as proven.

We'd all like to think that this is not going to happen. That nobody is going to have to face these investigations. But that is simply not true. There are already cases of investigations and of fines in Australia and the longer we take to get our act together, the greater the risk we're creating for ourselves. But let's get away from the fear mongering – it hasn't helped us so far and it's clearly not the thing that will make us seek to change.

Let's also explore the other results of our reluctance to fully engage in SID processes:

### Trusted Advisors

When we have a lack of consistent SID review and reporting events, it often means we're missing opportunities to show our clients that the safety conversation is as important to us as it might be to them – which can be frustrating for them and which, if that's the case, decreases our assumed value, which in turn shifts us away from our preferred position as a trusted advisor and therefore diminishes our influence in various other areas which we also care about. I remember hearing conversations as far back as 2009 where this outcome was all too obvious – and I'm unfortunately still hearing those conversations.

### Wasting Time

This lack of consistency also means that we're not always prompting safety conversations well enough in the early stages of design. Often enough, when certain topics are missed in the early design process, we might end up spending far too much time during detail design and documentation phases to coordinate solutions. So we end up wasting our own time, which we never have enough of already, right?

### Ineffective Actions

Sometimes our safety reviews are also ill-timed – they might happen as an afterthought and therefore are not particularly useful in truly contributing to safety outcomes. When we do this, we mostly just create records, not the useful avenues for good conversations and decision making which we are called to create to support safety. So we're focusing on self-preservation, which is never a good idea for a professional. We absolutely do miss opportunities for improved safety in this way, which means we're also inflating our risk of future litigation, whether civil or criminal.

## Obscuring with Clutter

Another problem is that our SID documentation often consists of long, fairly generic lists of information – so for example a Risk Register with words intended to prove our compliance, but really only listing information already incorporated in our design as part of standard compliance, as well as typical duties and controls applicable to any job. All this achieves, is to potentially obscure one or two important safety issues which really needed a good conversation to be resolved well, but which ends up being lost in reams of standard information which was never intended to inspire action beyond what is going to happen anyway.

## Contract Variations

Here's an interesting one – on projects with Design and Construct contracts, lack of Safety in Design review and reporting records from Architects, are causing problems for clients and for their appointed project managers. Contractors are claiming costly variations on Safety in Design grounds, leaving very little room for manoeuvre for clients and project managers and leaving them wondering (rightly or wrongly) why their Architect had provided unsafe design elements in the first place. The examples I have seen, are always in the absence of Safety in Design reporting from the designer, which, if it had existed, may have provided sound arguments for the original design elements, possibly provided clarity for more accurate tender pricing or could have identified and resolved the problematic design element in the first place.

## Safety Impact

It is easy to assume that a design compliant with all the necessary standards, codes and regulations should be deemed safe, but countless conversations on this topic, with real design examples, have shown me that this is not always the case. And we're not doing ourselves, our clients or our industry any favours in dragging our feet with this. There's something good here for us to learn and adapt to. We need to understand HOW we can change in a positive way, and reap some serious benefits in the process. And yes, those benefits are worthwhile and entirely within your grasp.

There is no unfair burden under the legislation. There is however an assumption of an unfair burden based on misunderstanding. And with this assumption, we are creating an imbalance in our industry and in fact creating several negative impacts on ourselves. When we do nothing or very little in terms of creating SID records, we're increasing our own risk and potentially setting ourselves up to end up in litigation with very little to prove our innocence. Or when we're documenting pages of unnecessary information, we're wasting our own time and eroding our own profitability, plus we're potentially hiding a few critical topics within a clutter of words, in effect preventing good safety conversations from being prompted. Or when others have to react because of our lack of appropriate SID records, we're causing variations, which means we're also causing frustration and therefore damaging relationships and the image of our own practice and of our profession. All of this means we're damaging our industry and we're missing real opportunities to maximise our contribution to safety, particularly for people maintaining and using the buildings we design.

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## THE WAY FORWARD

As with most things in our complex line of work, doing something well and with positive impact, does not necessarily mean we need to find extra time for it. It's simply about understanding the topic well and finding a way to work **smarter**.

We need to add our positive voice to the conversation. We need to ensure that how we respond to change in our industry benefits us as well as others. And then we need to take a high level of responsibility for how the industry understand our duties and interacts with it.

And I would like to show you how you can do this for Safety in Design.

It might surprise you how important this conversation is, but once you get it, you'll see how easy it can be to move from a place of BURDEN to a place of BENEFIT.

It's time for change, people! Join me on this learning journey and reap the benefits for yourself, your practice and your profession.

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