

Restoring confidence and lifting standards

Australian Society of Building Consultants

Matt Press, Director, Office of the Building Commissioner
20 April 2021

The Construct NSW strategy to improve public confidence in our industry



Shift focus from **players** to the performance of the construction **team**



Ensure all players are pointing towards the same goal, **trustworthy buildings**

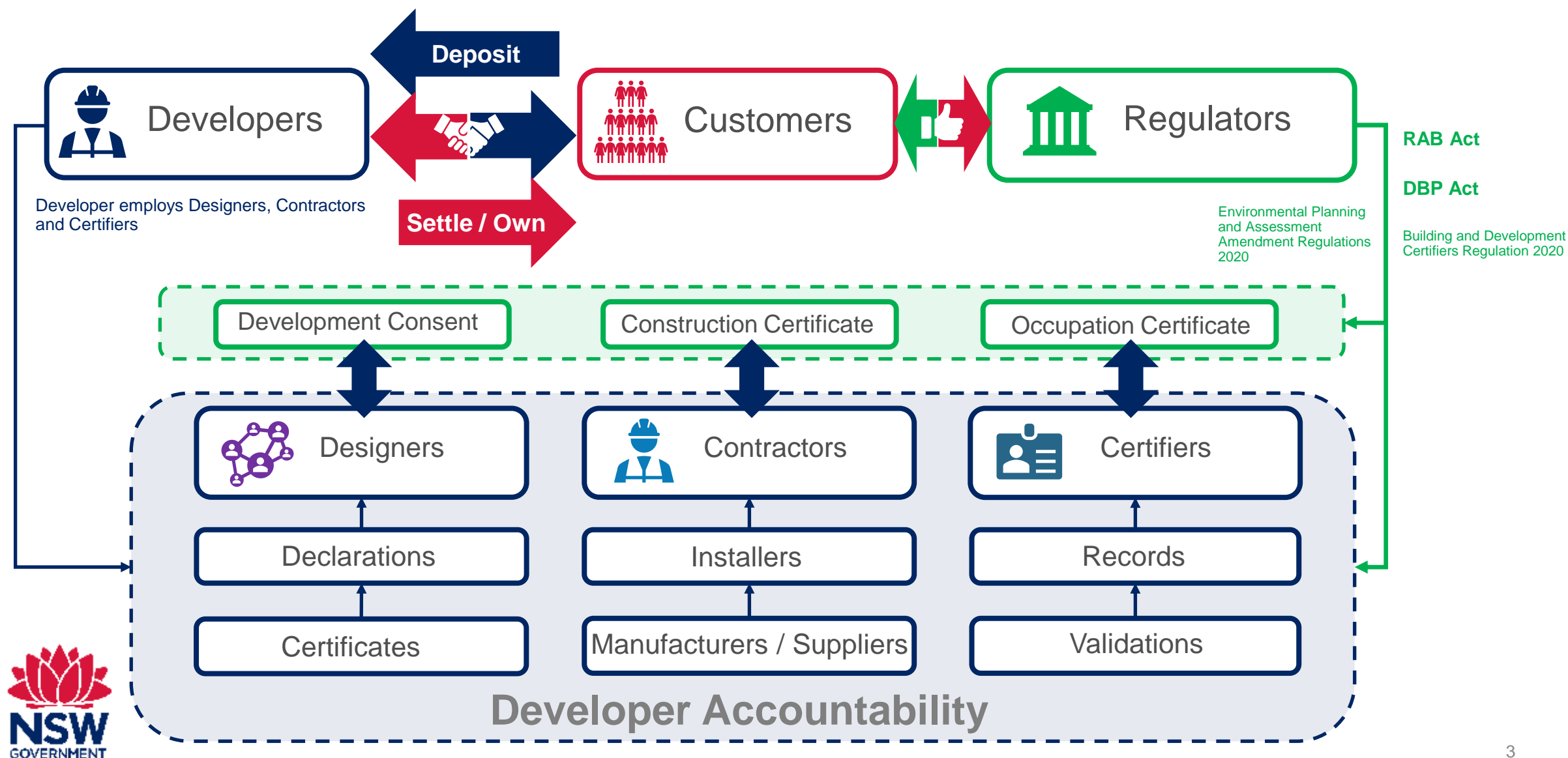


Put the **homeowner (customer)** at the centre

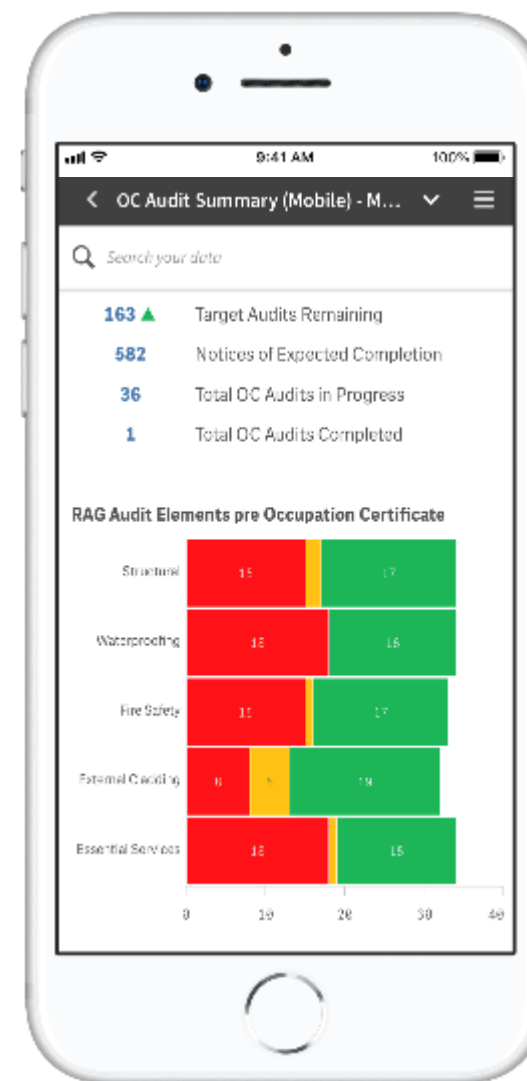
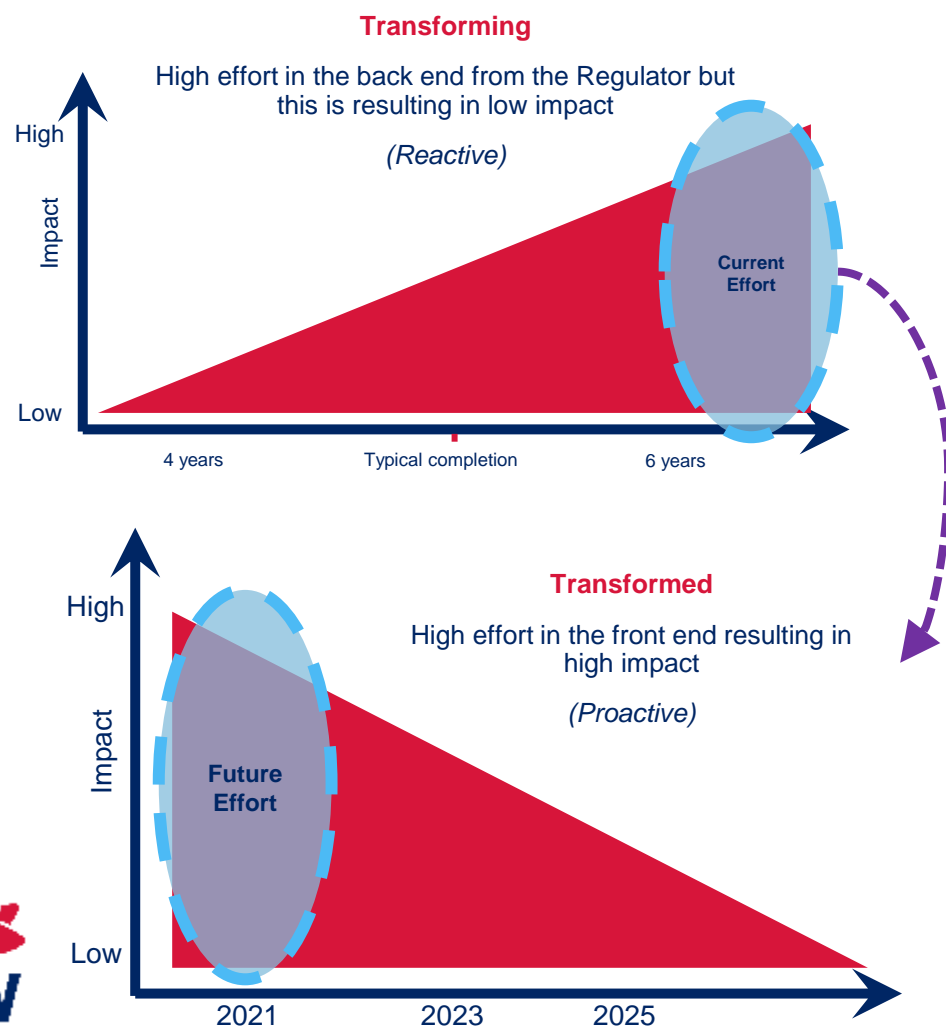


Restore **consciousness, pride** and **confidence**

It's the sum of the parts that matters

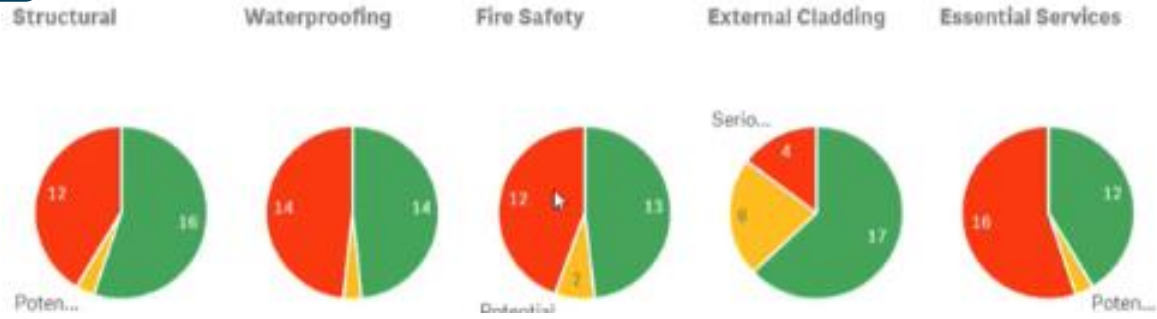


Transforming the regulators approach to proactive

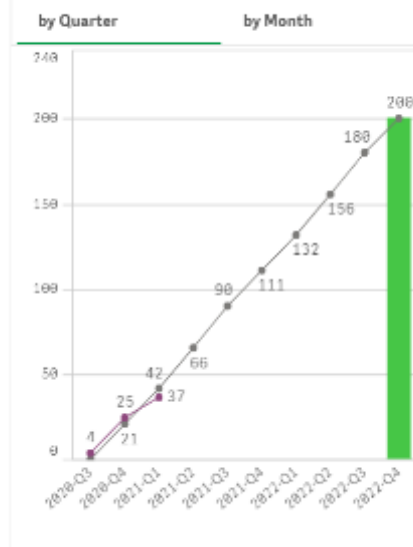
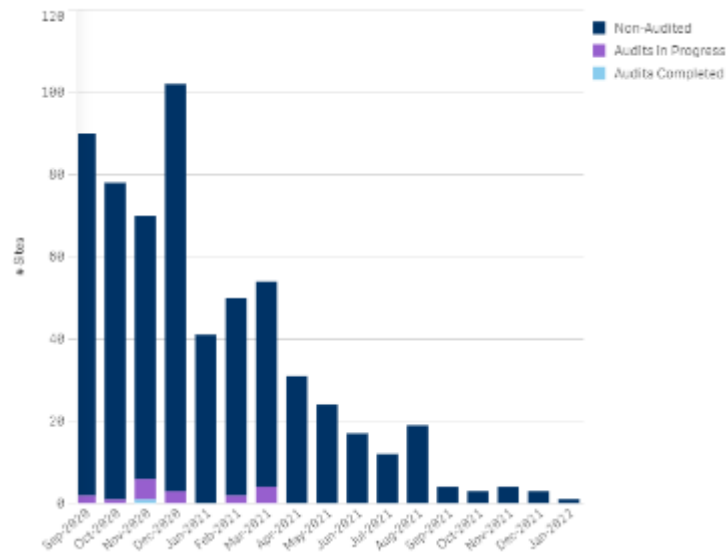


Digital fingerprints and smarter regulation to focus attention on accountability

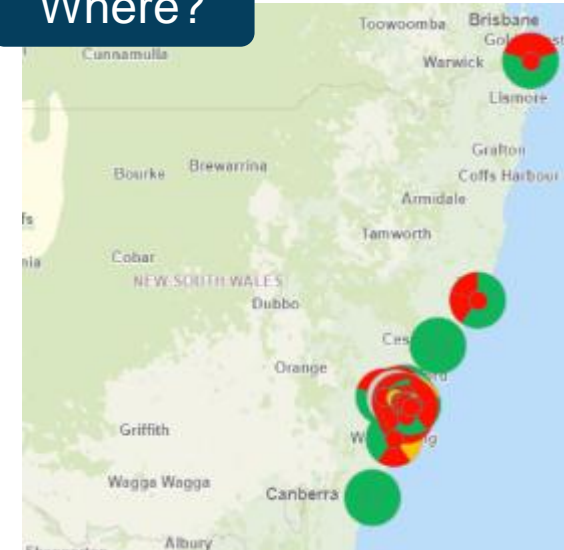
What?



When?



Where?



Who?

[illegible]

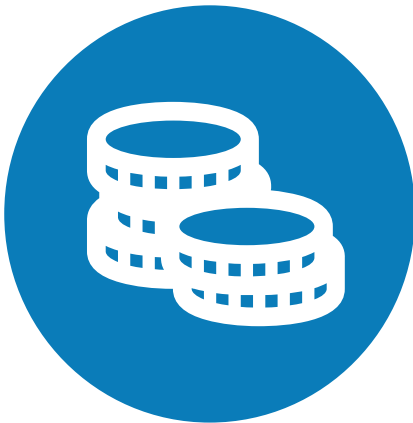
Making NSW the home of trustworthy buildings, those that don't harm people in their making or use



Physically



Emotionally



Economically



The environment in
which they are made
and exist

Restoring confidence won't happen until we fix this...

FIX IT ORDERS

BUILDING QUALITY CRACKDOWN REVEALED

29 CARTER STREET, LIDCOMBE

Parramatta Council, Australia YMCJ. Occupied
The advertisement described the 517m Emerald at Division Quarter building as "all about quality textures, finishes and products". But according to a February 12 building work rectification order issued by the NSWBC, the 418-unit building is riddled with waterproofing issues on the balconies and substandard tiling work that each amounted to a "serious defect". The company has lodged an appeal against this order in the Land and Environment Court.

93 AUBURN ROAD, AUBURN

Cumberland Council, Goldenland Developments, Occupied
Mr Chandler told a Business Western Sydney event recently that the building is "one of the worst that I've seen". "I was called into that project after it has been settled and occupied by some 190 people out of 240 and was invited to actually evacuate the building that is how bad it was," he said. "It was an absolute disgrace and I'm trying to get that resolved still." On March 3 developers were issued with an NSWBC order prohibiting them from obtaining a final occupation



12 Beaconsfield Parade, Lindfield.

563 GARDENERS ROAD, MASCOT

Bayside Council, Fitz Jersey Pty Ltd. Unoccupied, under construction
The developer is scrambling to fix serious fire defects relating to the rooftop of 25-apartment development in Sydney's southeast after being issued with a NSWBC prohibition order December 21. Bayside Council planning documents reveal the private corridor for both the fit-out and construction of the \$6.4 million development was Steven Saad. In 2018 Mr Saad was fined \$15,000 by NSW Fair Trading after he issued construction certificates for a change of building use "which did not comply with BCA fire safety requirements". A spokesman for the developer

certificate because of failing tiles, leaking showers, porous planter boxes that could cause "concrete cancer".

said "works are progressing well and we hope to have the building finished in two-three weeks".

1 LOWER BENT ST, NEUTRAL BAY

(North Sydney Council) Hillsdale Rebel MH Bent St Unit Trust. Unoccupied
Developers of this four-townhouse property have been pinned over a car stacker that has "no visible barriers installed to avoid fall hazards to drivers and or passengers". The February 12 building work rectification order also found "no fire mitigation strategies have been provided for special hazards (for the mechanical car stacker parking system)".

12 BEACONSFIELD PARADE, LINDFIELD

Maring-gal Council, Grand City Investment Pty Ltd. Unoccupied, under construction
On February 12 developers were



2 Mitchell Rd Alexandria.

told by the NSWBC there are serious problems with waterproofing membrane around planter boxes, "inadequate adhesive" around wall tiles, and bathrooms that don't drain properly. There is no mention of these issues in advertising for the development, which says: "Set in Sydney's rich and prestigious suburb, no stone has been left unturned with an exceptional build quality from a leading builder and developer".

2 MITCHELL ROAD, ALEXANDRIA

City of Sydney, Emma Development. Occupied
The NSWBC found the Terracotta building project was found to have "significant water ponding" around balconies, rooftop planter box waterproofing problems, inadequate tiling and unsealed

bathroom shower screens according to a February 26 building work rectification order. The \$14m project has 29 apartments, with some apartments being sold off the plan for more than \$1.6m.

50-52 HEAD ST, FORSTER

Mid-Coast Council, Mundarran. Unoccupied, under construction
The Cove Forster is billed as "soon to be Forster's best address", however this mid-north coast property has been found to have cladding installation problems that have been classed as "a serious defect". Developers were issued with a building work rectification order in February, all while four-bedroom penthouses remain on sale from \$1.95m.

EXCLUSIVE

BEN PIKE

ALMOST 1000 apartments worth more than \$500 million are the subject of fix it orders under a crackdown by NSW Building Commissioner David Chandler.

The orders relate to 10 developments — nine of them

Environment Court.

Since Better Regulation Minister Kevin Anderson secured landmark building reforms in September last year, Mr Chandler has issued the 10 developers with 17 orders to either fix work, stop work or prevent them from getting building occupation certificates.

The orders are aimed at

ON 1000 UNITS



NSW Building Commissioner David Chandler outside 319-321 Liverpool Road, Strathfield. Picture: Tim Hunter.



9 ACTINOTUS AVE, CARINGBAH SOUTH

Sutherland Council, Meeno Group. Unoccupied, completed
The first property targeted by Mr Chandler's new powers saw this nine townhouse and villa development pinned because of

"serious defects" with cladding, elevators and waterproofing. The company has since complied with the terms of their prohibition

order - issued in September last year - and so builders can apply to get the \$4.9m property signed off and get residents moved in.

319-321 LIVERPOOL RD, STRATHFIELD

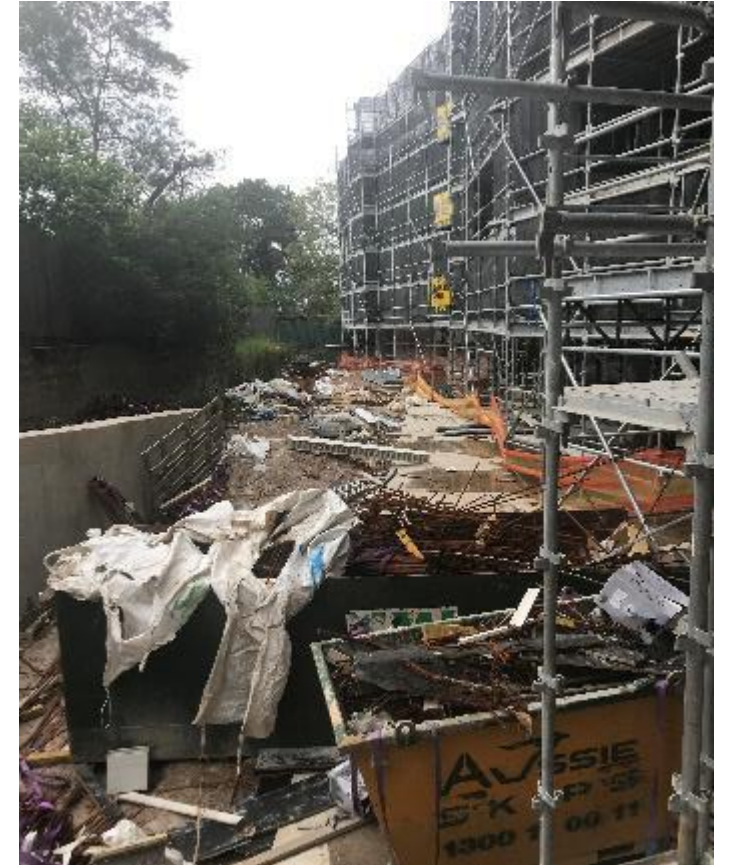
Burwood Council, Danie Developments. Unoccupied, under construction
The developer was issued with a NSWBC stop work order January 27 following SafeWork NSW employees uncovering "cracking of the tensioned concrete structural reinforced slab" and "large voids and absence of cover to the structural reinforced steel". The six-storey, \$6m property remains mothballed while the developer complies with orders. The site's private certifier, Professional

and Australian YMCJ, which has a development in Lidcombe, are appealing orders dished out by the NSWBC.

Mr Chandler's office has also audited the occupation certificate of 67 projects, handing out one fine.

Mr Anderson said further reforms coming in July 1 will make the industry more ac-

Safety and site hygiene are correlating with compliance



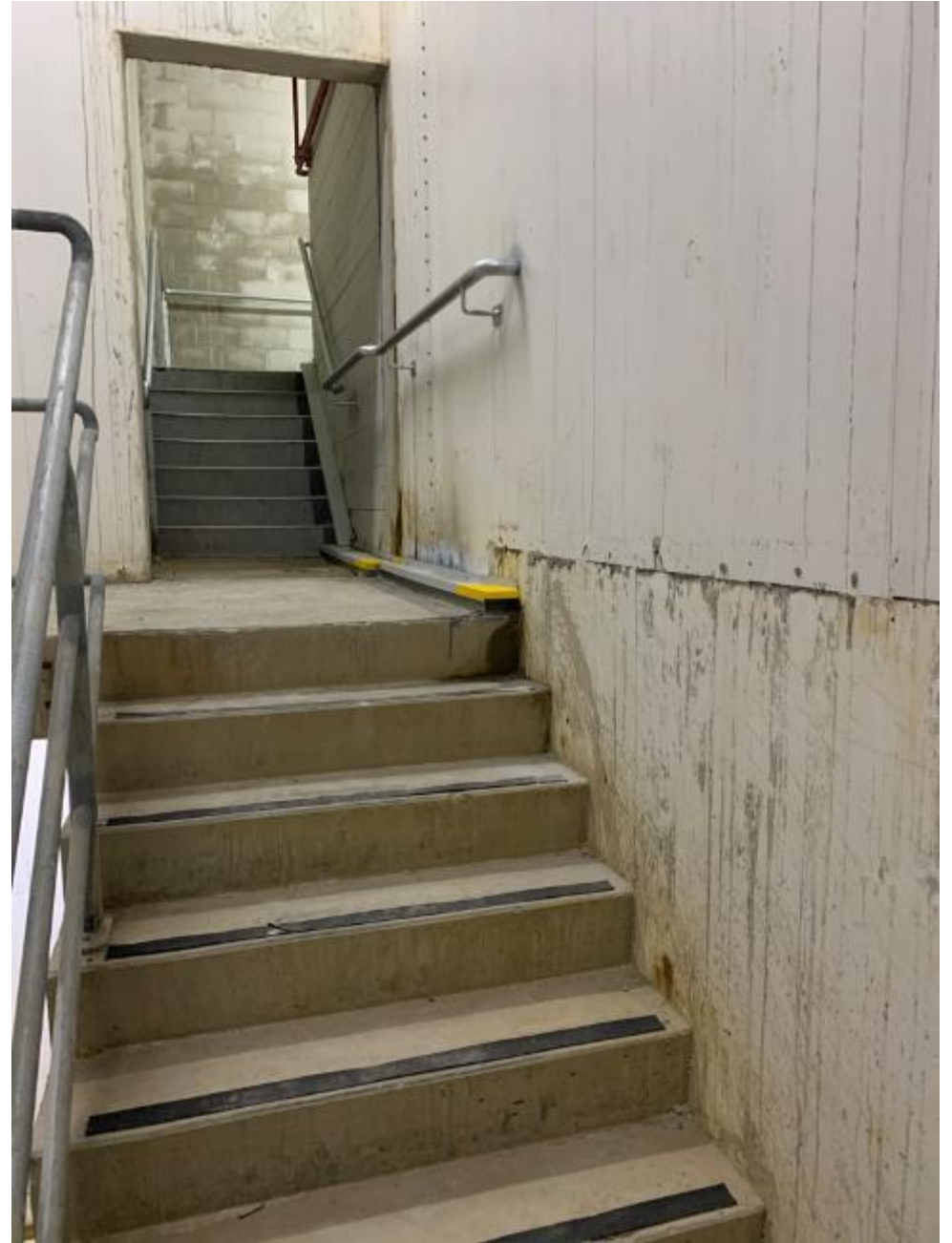
The standard that constructors walk past is the standard that they accept













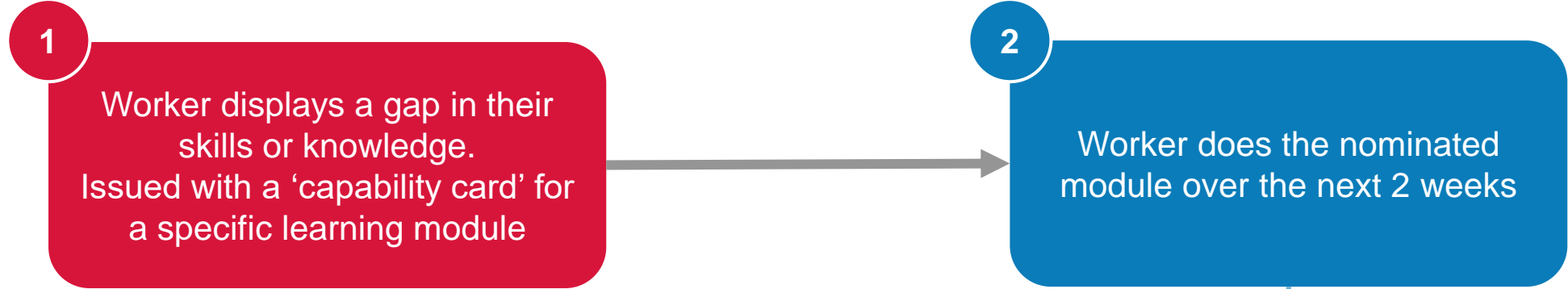
It's better for everyone to get set before you go







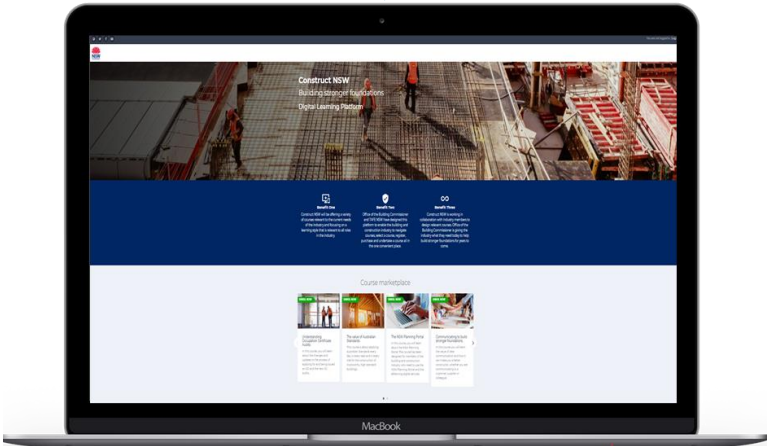
Let's not be shy of doing it better



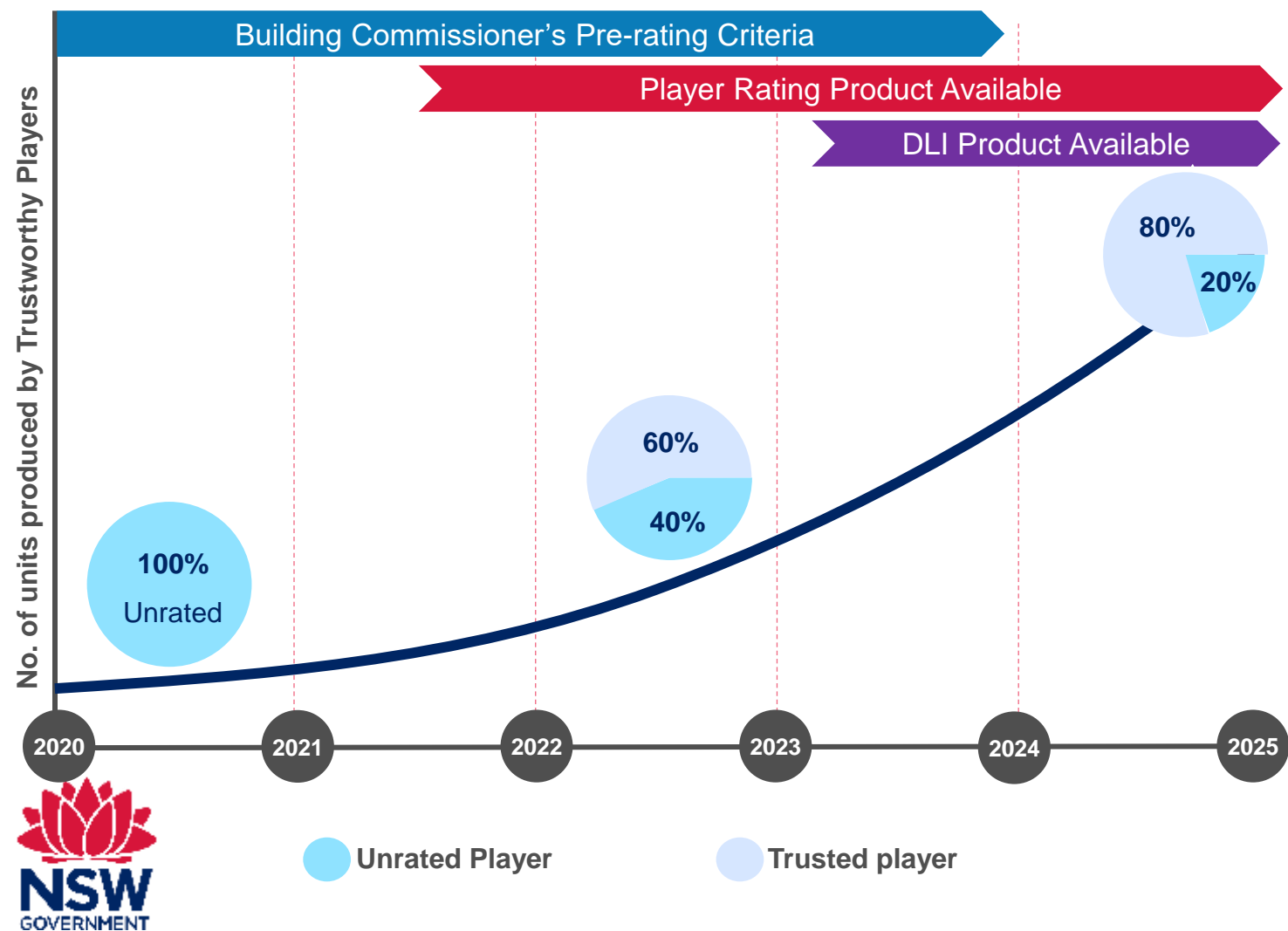
Responding to breaches and locking in change through education



 QUALITY CONSTRUCTION CARD <i>Learning Required</i> The value of Australian Standards    Construct NSW Building Stronger Foundations	STUDENT COMMITMENT The value of Australian Standards Name: _____ Date: _____ Work site: _____ Signature: _____ <small>For the Office of the Building Commissioner's records</small>
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Growing the supply of Trustworthy Players

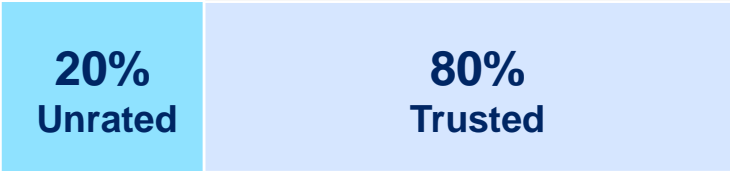


By 2023:



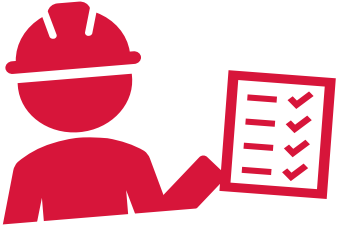
Trustworthy players producing 12,000 units per year (out of 20,000)

By 2025:



Trustworthy players producing 18,000 units per year (out of 23,000)

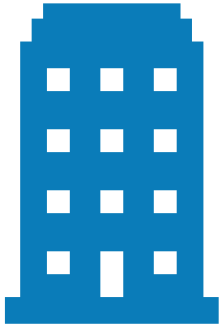
In summary, what we're seeing in the OC audits supports the coming reforms



Poor attention to products, materials and safety

Including:

- Lack of compliance testing
- Lack of authenticity checks for materials



Lack of responsibility for 'whole of structure' design

Including:

- Multiple vendors designing different parts of buildings
- Poor coordination between design professionals



Disregard for design to enable shortcuts

Including:

- Conditional certifications to carve out designer responsibility
- Retrofitted design solutions to accommodate non-compliant work

The Design and Building Practitioners Act 2020



Registration, Compliance Declarations and Regulated Designs

Registration Schemes

Two independent but complementary registration schemes established, covering four classes of practitioners.

Scheme 1	Scheme 2
1. Design Practitioners	4. Professional Engineers
2. Principal Design Practitioners	
3. Building Practitioners	

Ensures practitioners are suitably qualified, experienced, properly insured, meet continuing professional development requirements and comply with a new code of conduct that establishes professional and ethical standards.

Compliance Declarations

Compliance declarations can only be provided by registered design, principal design and building practitioners and are required at multiple points through the construction process.

Design Compliance Declaration	Principal Compliance Declaration	Building Compliance Declaration
Submitted by a registered design practitioner whenever a regulated design is issued or varied, declaring the design meets Building Code of Australia requirements.	Principal design practitioner submits, declaring that design compliance declarations exists for each regulated design and were provided by a registered design practitioner.	Issued by building practitioners, declaring that all building work carried out is compliant with the regulated designs and Building Code of Australia.

Compliance Declarations are lodged online through NSW Planning Portal. Certain declarations must be lodged: before building work commences, as variations arise, before the issue of an OC, and 90 days after OC is issued in support of the 'as built' designs.

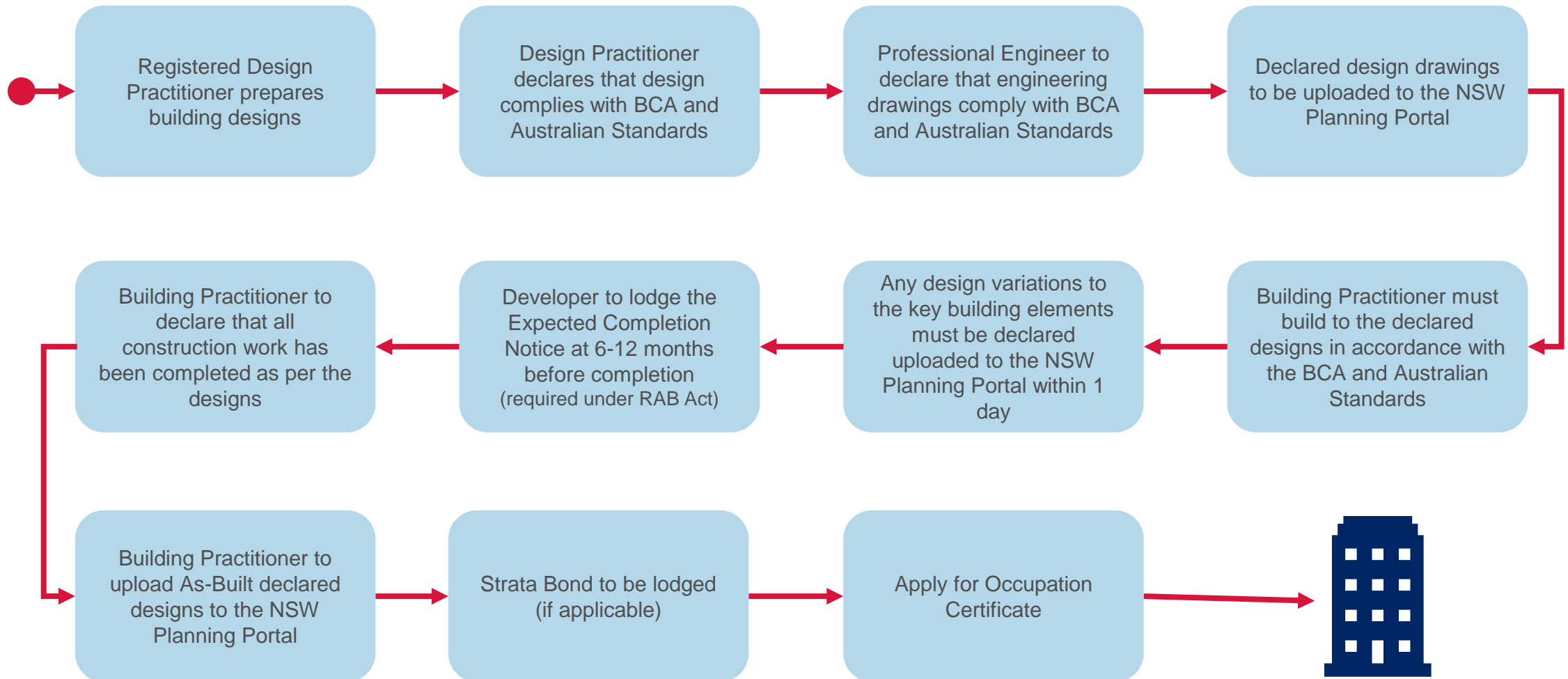
Regulated Designs

Regulated designs are designs prepared for performance solutions or specific building elements, with elements defined by the Act.

Fire safety systems	Load bearing components
Waterproofing	Building enclosure
Mechanical, plumbing, electrical services	

Regulated designs can only be prepared by registered design practitioners, i.e. practitioners who are registered on the Registration Scheme as a Design Practitioner.

The new process of Design then Construct



What building work does the DBP apply to?

Limited exemptions are outlined in the Regulations (clause 13)

- Exempt development (per EP&A definition)
- Work that is part of a 'development control order' (per EP&A definition)
- Repair of fire safety systems for the purposes of maintenance
- Repair of mechanical, electrical, plumbing for the purposes of maintenance
- Work that is not residential building work as defined by the Home Building Act
- Replacing of components is not exempt on the basis that this is a material change to the element



Who needs to register from 1 July 2021?

- For those practitioners working on a class 2 building on 1 July 2021, ensure that you have submitted an application and received your Deemed Registration by the end of the 7 July 2021.
- If you are not working on a class 2 building (or part of) as at 1 July 2021, you do not need to register until you do.
- If you are doing work within the 6 areas of engineering on a class 2 building (or a building with a class 2 part) you must be registered as a professional engineer within NSW.
- Design and Building Practitioners working on class 2 buildings must register to declare regulated designs on the NSW Planning Portal.
- Not every designer or builder working on a class 2 building is required to register under this scheme. Only those who will be declaring regulated designs must register as a Design or Building Practitioner.
- Corporate bodies can register as a Design Practitioner, Principal Design Practitioner or Building Practitioner.
- Mutual recognition applies to Professional Engineers but not Design and Building Practitioners.

Documents to be lodged

Declaring **variations** relates to changes to this set of regulated designs which relates to the five building elements.
We are only interested in changes to common property building elements. We are not interested in changes to door handles or kitchen fittings.

Regulated Designs
Regulated designs are designs prepared for performance solutions or specific building elements, with elements defined by the Act.

Fire safety systems

Load bearing components

Waterproofing

Building enclosure

Mechanical, plumbing, electrical services

Regulated designs can only be prepared by registered design practitioners, i.e. practitioners who are registered on the Registration Scheme as a Design Practitioner.



Before building work commences

Documents lodged at this stage:

- a copy of each construction-issued regulated design for building work
- a copy of each design compliance declaration for regulated designs
- the principal compliance declaration (online) if appointed.

Building Practitioner must give the Principal Design Practitioner, if there is one, 14 days' written notice before building work starts.

This gives the Principal Design Practitioner time to collate and complete the principal compliance declaration.



After building work commence

Documents lodged at this stage:

- a copy of each varied regulated design
- a copy of the regulated design for a new building element or performance solution
- a copy of each design compliance declaration for the above designs.



Before you apply for an occupation certificate

Documents lodged at this stage:

- the building compliance declaration (online)
- a contractor document
- a copy of each variation statement required for building work
- a copy of any other regulated design that contains additional details not in the construction-issued regulated design, but are not variations
- a principal compliance declaration (online), if any.



After the occupation certificate has been issued

Documents lodged at this stage:

- a building compliance declaration
- a contractor document
- a copy of each variation statement required for building work
- a copy of any other regulated design that contains additional details not in the construction-issued regulated design, but are not variations
- a principal compliance declaration (online), if any.

Regulated Designs

Regulated Designs

Regulated designs are designs prepared for performance solutions or specific building elements, with elements defined by the Act.

**Fire safety
systems**

**Load bearing
components**

Waterproofing

**Building
enclosure**

**Mechanical, plumbing, electrical
services**

Regulated designs can only be prepared by registered design practitioners, i.e. practitioners who are registered on the Registration Scheme as a Design Practitioner.

Regulated designs are designs prepared for a building element related to the common property, or a performance solution, for building work. These are considered important as they are likely to have a greater impact on the safety and quality of construction in a building.

Building work refers to the construction; alteration or addition; or the repair, renovation or protective treatment of a class 2 building.

Building element related to the common property means any of the following:

- fire safety systems
- waterproofing
- building structure
- building enclosure
- building services

Any designs for remedial or defective work connected to the five building elements or performance solution require regulated designs to be provided and lodged onto the NSW Planning Portal. You need to provide the specific regulated designs associated with the remedial work before work can commence.

Prescribed list of specifications will be available on NSW Fair Trading website in May 2021.

Lodgement transitional arrangements

- 1 Construction Certificate or Complying Development Certificate issued **before** 01.07.2021 **AND** building work has commenced.



Building Practitioner must provide a set of regulated designs but do not need to make compliance declarations prior to the application of an occupation certificate.

- 2 Construction Certificate or Complying Development Certificate issued **after** 01.07.2021 **AND** building work not commenced.



Staged lodgment of declared designs and compliance declarations. Full compliance must be reached prior to the application of an occupation certificate.

- 3 Construction Certificate or Complying Development Certificate issued **before** 01.07.2021 **AND** building work not commenced.



Staged lodgment of declared designs and compliance declarations. Full compliance must be reached prior to the application of an occupation certificate.

- 4 For staged constructions, any Construction Certificate or Complying Development Construction issued **before** 01.07.2021 and building work had commenced does not need to comply but any subsequent building work started on another certificate will need to comply.

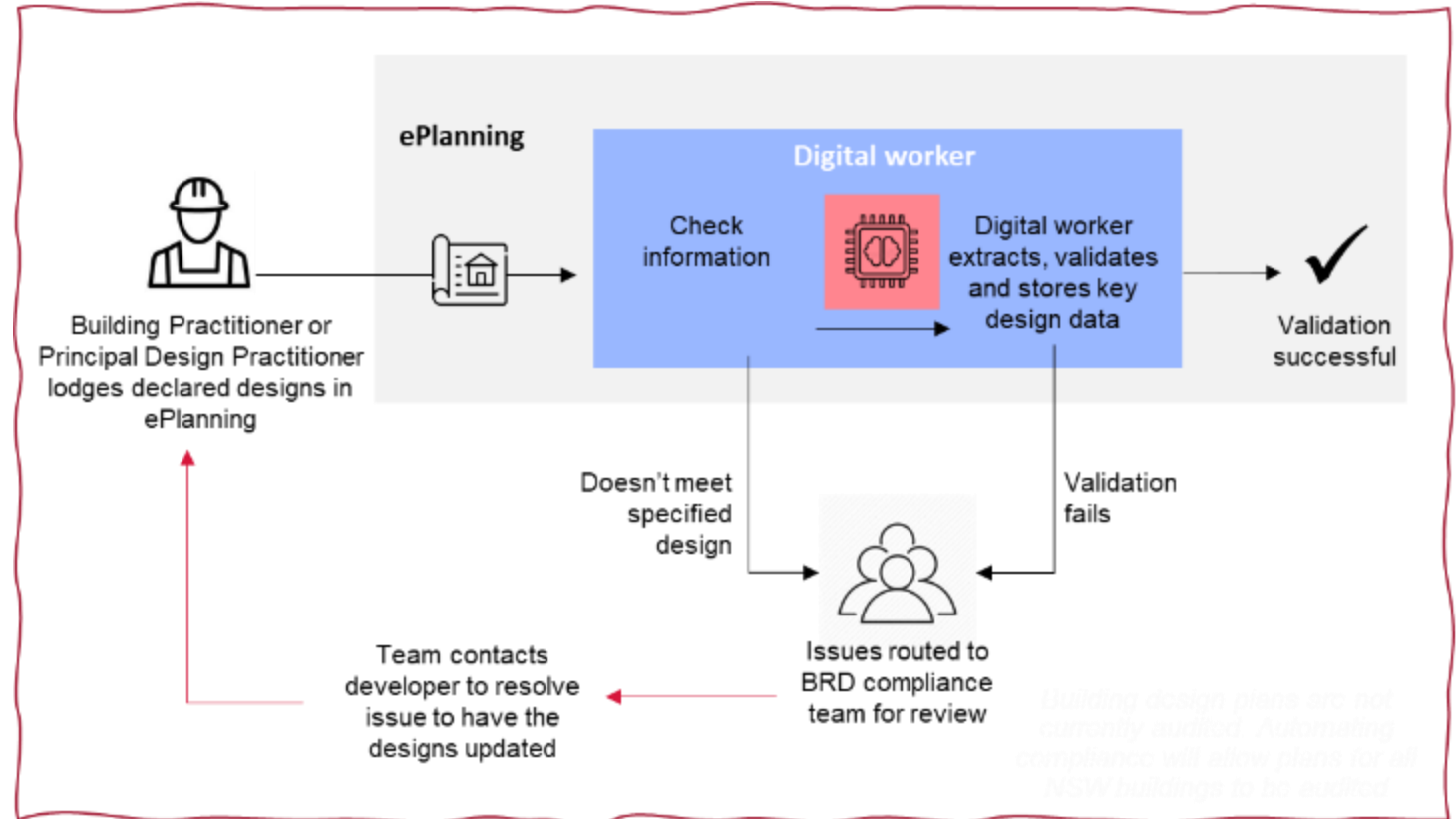


Building Practitioner do not need to provide regulated designs nor compliance declarations for the building work started before 1 July 2021.

Staged lodgment of declared designs and compliance declarations. Full compliance must be reached prior to the application of an occupation certificate.

Compliance checking lodged documents

- From **1 September 2021**, NSW Fair Trading will be reviewing lodged documents for compliance against the Act and Regulations.
- For **declared designs**, a **standard title block** must be used on the drawings.
- Technology on the NSW Planning Portal will extract and validate details against the NSW Fair Trading register for Design and Building Practitioners. **Ensure you details are up to date on the register.**
- Standard Title Block** will be available to download from the NSW Fair Trading website – vertical / horizontal format in different sizes.
- Any regulated designs not meeting standards or potential defects will need to be **rectified by the property developer** before building work continues.
- Any issues will be referred to the NSW Building Commissioner for investigations under the Residential Apartment Building Act.



					Body Corporate Reg No: BC71884	Drawing Status: FINAL	
					Project Title: Sample Apartment	Scale: 1:100	Sheet size: A1
					Project address: 2-24 Mitchell road, Parramatta NSW 2150	Drawing No: 29865	Rev No: 5
5	30/11/2020	Final	George Storm	DP51376	Drawing title: General Arrangement Plan - Level 2	DA No: 69207/648	Date: 30/11/2020
4	28/06/2020	As Built	Jess Nathan	DP71053			
3	25/04/2020	Issued for construction	Jim Storm	DP75644			
2	22/04/2020	Revised	Jim Builder	DP80811			
1	20/04/2020	Initial draft	Knox Kid	DP30450			
Rev No	Date	Description	Full Name	Reg No	Job No: 60127		

Q&A – OBC here to help restore confidence



Construct NSW Website



Digital Learning Platform



Subscribe to Newsletter



Letter to Developers
(Chinese)



RAB Act



DBP Act



Case Studies & Research



Letter to Developers
(Arabic)



RAB Act Order Register



Certifier disciplinary register



DBP Model Clauses



Letter to Developers
(English)