

# Working in class 2 changes from 1 July: Design and Building Practitioners Act

## Consult Australia Online Discussion

**Matt Press, Director Office of the Building Commissioner**

**7 June 2021**



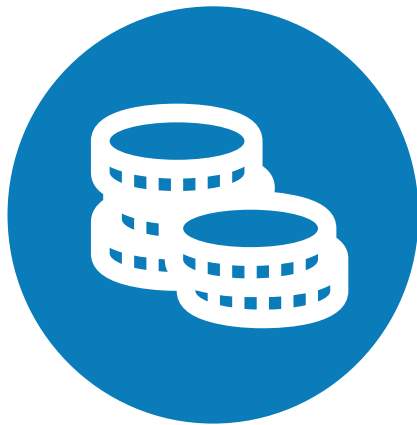
# Our collective mission – making NSW the home of trustworthy buildings



**Physically**



**Emotionally**



**Economically**



**The environment in  
which they are made  
and exist**

# For homeowners (the customers), it's the sum of the parts that matters



# What does restored confidence look like?



NSW the **preferred state** for purchasers to invest in new **apartment buildings**



NSW regarded by financiers as a **preferred market** to finance **new projects**



NSW regarded as a **preferred risk** and **insurable** market by insurers



Branded **developers** in NSW regarded as preferred and **trustworthy**



Construct NSW to help facilitate plus **20,000 apartment** starts from 2023



Change the public perception of our industry to **attract tomorrow's constructors**

# We need to encourage a strong pipeline of new designers, architects, builders, trades, consultants, engineers, etc...

- Around 100,000 of our industry will have retired or left by 2030
- Changing technology and innovation will require new roles and workforce capability uplift
- It is vital to establish an attractive and productive industry that the next generation to want to join and stay in



# Design and Building Practitioners Act 2020

It starts on 1 July, are you ready?



<https://www.fairtrading.nsw.gov.au/housing-and-property/changes-to-class-2-buildings>

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

Coordinated design documentation is key to developing trustworthy buildings



# The DBP creates new obligations for builders and designers



A **IFC set of designs** is required before building work can begin



Final 'as-built' designs will be **accessible** by **strata bodies** in the future



Declare work complies with **building codes & standards**



Meet **ongoing CPD requirements** to stay registered

## Why?

- **Design, then construct**
- Restore consumer confidence through trustworthy buildings

More information:

<https://www.fairtrading.nsw.gov.au/housing-and-property/changes-to-class-2-buildings>



# What work is affected?

**DBP applies to class 2 buildings or those with class 2 part, including remedial work.**

This includes:

- Multi-residential apartment buildings
- Single storey attached dwelling with common space below
- A dwelling with a granny flat attached
- Mixed-use buildings with a class 2 part e.g.
  - Apartment building with shops on the first floor
  - Apartment building with offices occupying some floors
  - Apartment building with a carpark



Exemptions and more information:

<https://www.fairtrading.nsw.gov.au/housing-and-property/changes-to-class-2-buildings>

# Registration



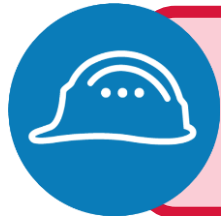
# Who needs to register?



## Professional Engineers

Who perform **electrical, civil, geotechnical, structural, fire safety and mechanical** engineering work

6 registration classes



## Building Practitioners

Who are the **principal contractor for the building work** – not every tradesperson

3 registration classes



## Design Practitioners

Who will take **responsibility for submitting regulated designs and declaring designs**

18 registration classes

# Which builders?

Building practitioners who are undertaking building work on a Class 2 building, or a building that contains a Class 2 component, must register under the D&BP.



The **Building Practitioner** is the person who is the principal contractor for the building work. Where there is more than one builder on a project, the Building Practitioner must be the Head Contractor.

This role is responsible for making building compliance declarations – they declare that building work is constructed in accordance with declared regulated designs and the BCA.

## Classes of Building Practitioner:

- building practitioner—body corporate
- building practitioner—body corporate nominee
- building practitioner—general

# Registration of Body Corporate as Building Practitioner

- The body corporate must also have an employee who is an individual registered as either a Building Practitioner – Body Corporate Nominee or as a Building Practitioner – General.
- Body corporate would need to also hold a contractor licence, and the nominated employee would either need to hold a supervisor certificate or an endorsed contractor licence under the *Home Building Act 1989*.

# Which designers?

**Design practitioners who will declare designs of a Class 2 building, or a building that contains a part 2 component, are required to register under the D&BP.**



Each category of **Design Practitioner** is authorised to declare certain types of designs. A construction project will require a range of registered design practitioners, each bringing a different specialty. It is important that you read the regulations to understand the detail on each design practitioner category.

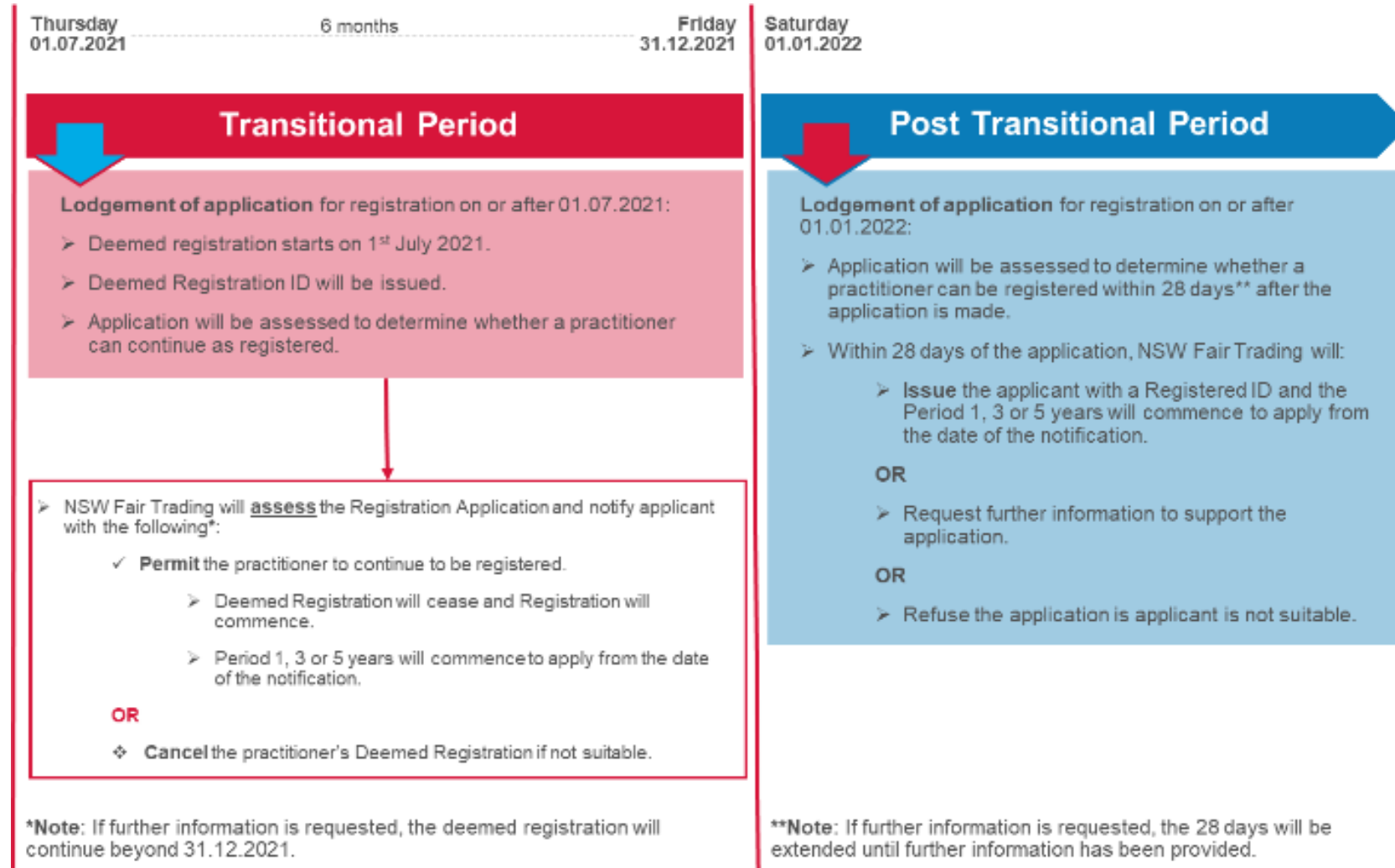
## **Classes of Design Practitioner:**

- design practitioner—architectural
- design practitioner—body corporate
- design practitioner—building design (low rise)
- design practitioner—building design (medium rise)
- design practitioner—civil engineering
- design practitioner—drainage
- design practitioner—drainage (restricted)
- design practitioner—electrical engineering
- design practitioner—façade
- design practitioner—fire safety engineering
- design practitioner—fire systems (detection and alarm systems)
- design practitioner—fire systems (fire hydrant and fire hose reel),
- design practitioner—fire systems (fire sprinkler)
- design practitioner—fire systems (mechanical smoke control)
- design practitioner—geotechnical engineering
- design practitioner—mechanical engineering
- design practitioner—structural engineering
- design practitioner—vertical transportation

# Registration of Body Corporate as a Design Practitioner

- Body corporate must have an employee who is an individual registered Design Practitioner or Principal Design Practitioner in the appropriate class/es.
- ‘Design Practitioner – Body Corporate’ can only produce regulated designs and related compliance declarations in the categories that the employee is registered for.
  - For example, if the only registered employee of a body corporate is registered in the class of Design Practitioner – Architectural, the body corporate is only able to prepare regulated designs and make declarations for those designs relevant to that category.
- To be registered in multiple categories, the body corporate will need employees registered in each (but, can be one person with multiple registrations)

# Deemed Registration from 1 July 2021





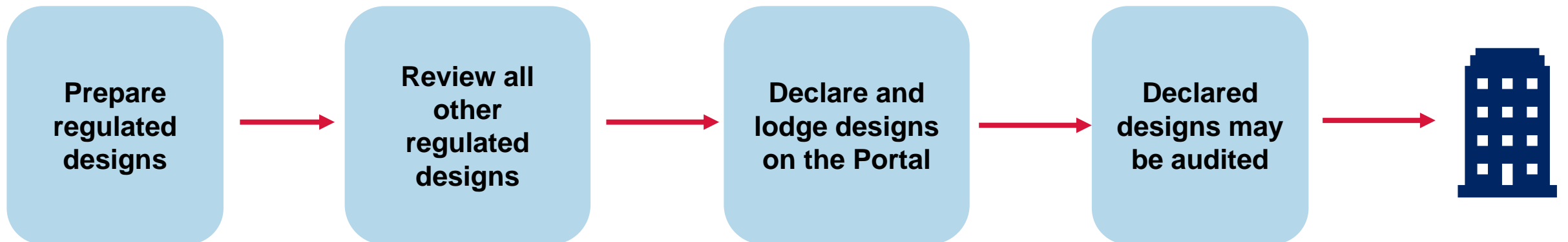
# Regulated Designs and Declarations



# The role of quality design documentation in producing trustworthy buildings

**Why do regulated designs need to be lodged before building work starts?**

- Ensures the Building Practitioner has all the critical designs before commencing work
- Prevent significant variations
- Provide a record of compliance and make it easier to determine the cause of defects (if needed)



# Variations under the DBP

Key consideration: is the variation related to a **key building element** or to a **performance solution**?



**Yes** - Design Practitioner must prepare and declare a new design.

Variations on regulated designs must be lodged **within one day of the variation** alongside the **design compliance declaration** form.

**Work may need to stop** so that the varied design can be prepared and declared within this this timeframe.



**No** - Building Practitioner must record in a variation statement.

The **variation statement** will need to be **lodged prior to the application for an OC** and must not include any variations that are building elements or performance solutions (as these require the preparation and declaration of a new, updated design).

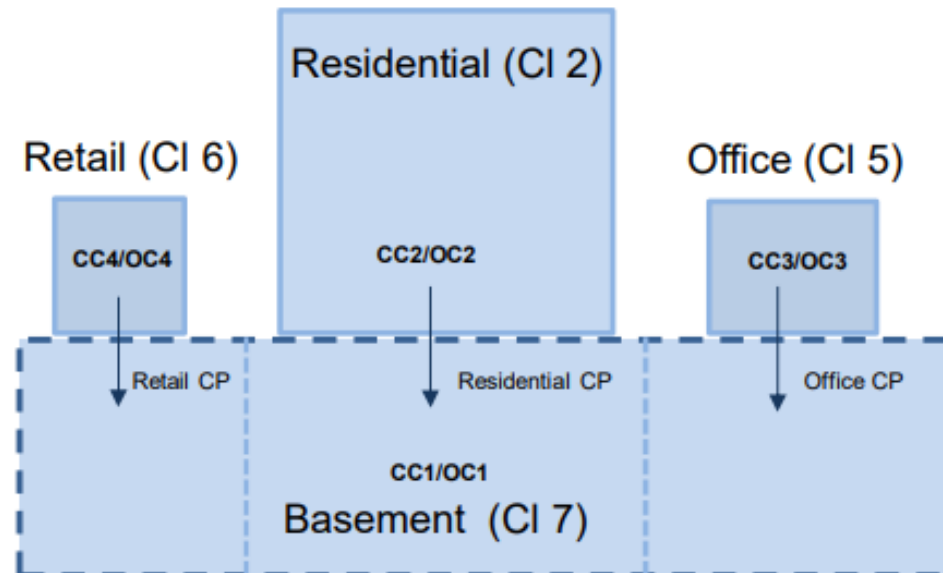
Detailed information:

<https://www.fairtrading.nsw.gov.au/housing-and-property/changes-to-class-2-buildings>

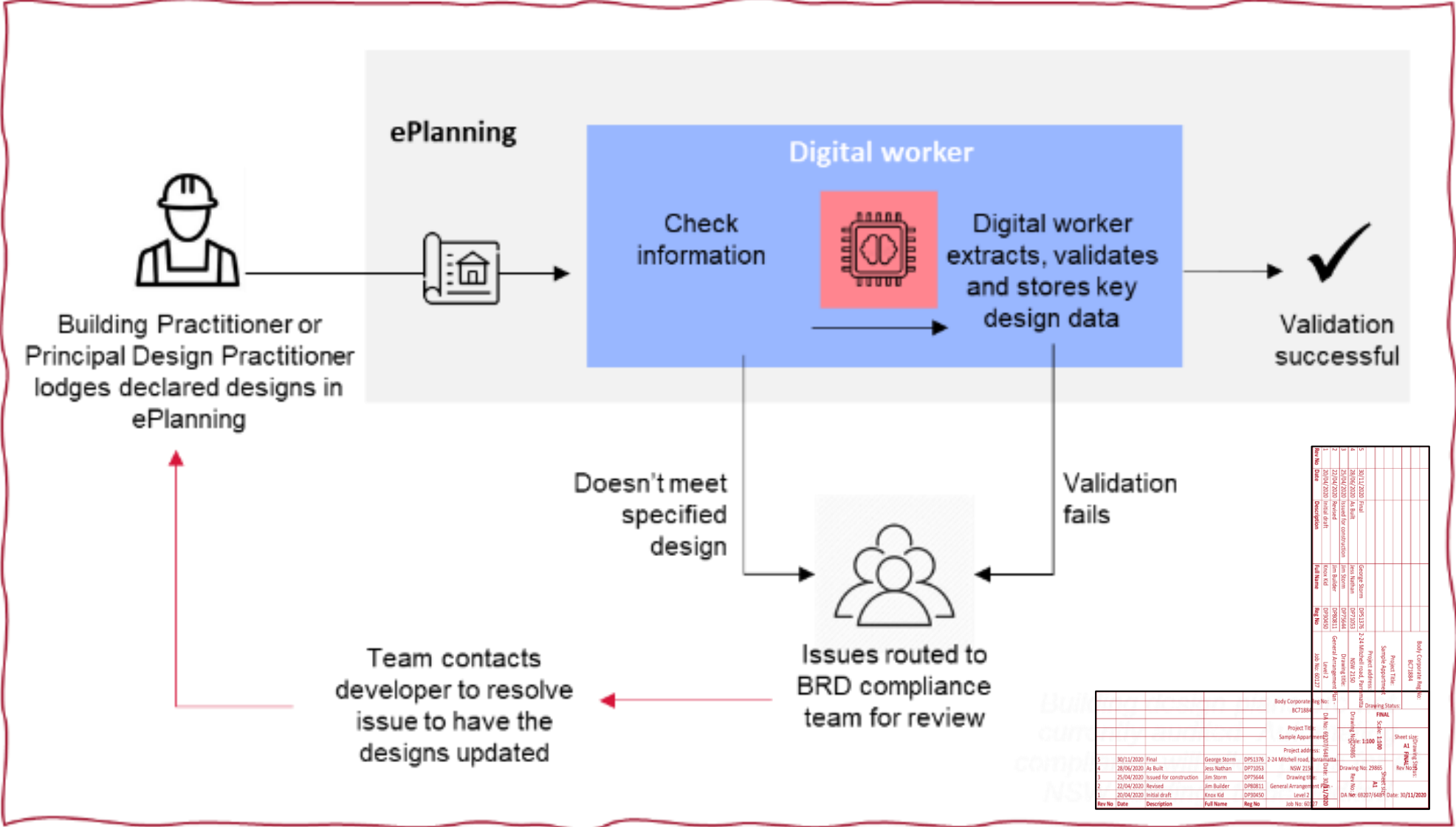
# How it works for a mixed use, staged development?

## Mixed Use Development (above common Basement)

- Basement across entire site – delivered in one stage
  - 70% parking for Residential use
  - 20% parking for Office use
  - 10% parking for Retail use
- Single Residential tower above
- Office adjacent Residential tower
- Retail adjacent Residential tower
- 4 OC's requiring 4 CC's



# Declared designs will be audited – requirements in Ministerial Orders published very soon



Rev No	Date	Description	Full Name	Reg No	Job No	Alt
5	30/11/2020	Final	George Storm	DP15176	2-24 Mitchell road, Farmwood	
4	28/06/2020	As Built	Les Mathan	DP71925	NOR 215	
3	25/04/2020	Issued for construction	Jim Storm	DP75644	Drawing title	
2	22/04/2020	Revised	Jim Bulder	DP80811	General Arrangements	
1	20/04/2020	Initial draft	Knox Kid	DP50450	Level 2	

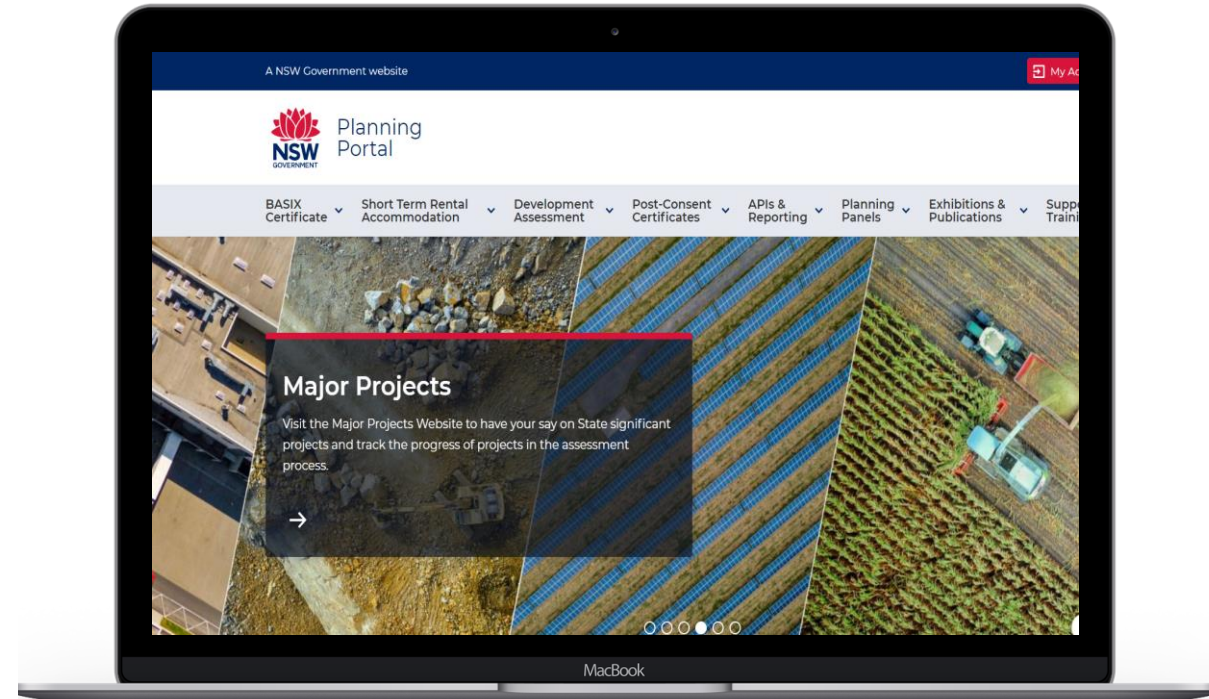
  

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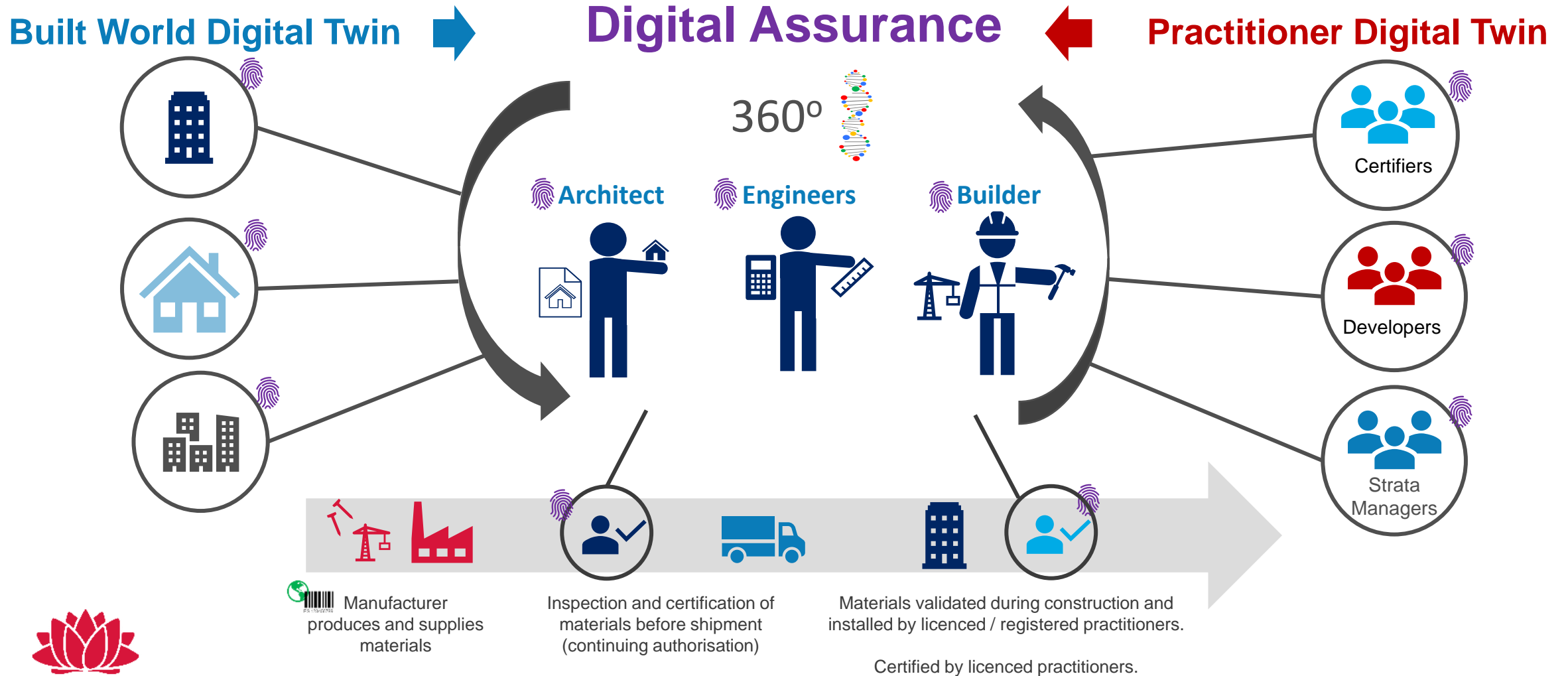
# Who needs to use the NSW Planning Portal?

- Certifiers
- Building practitioners
- Principal design practitioners
- Some design practitioners – only those authorised (nominated) by the builder

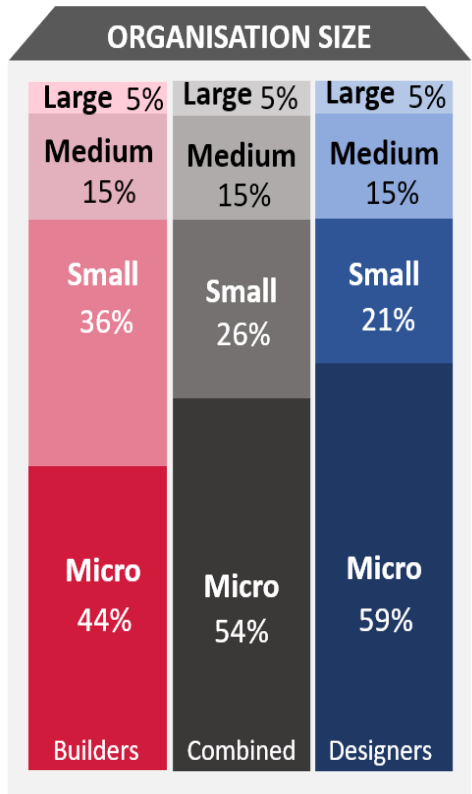
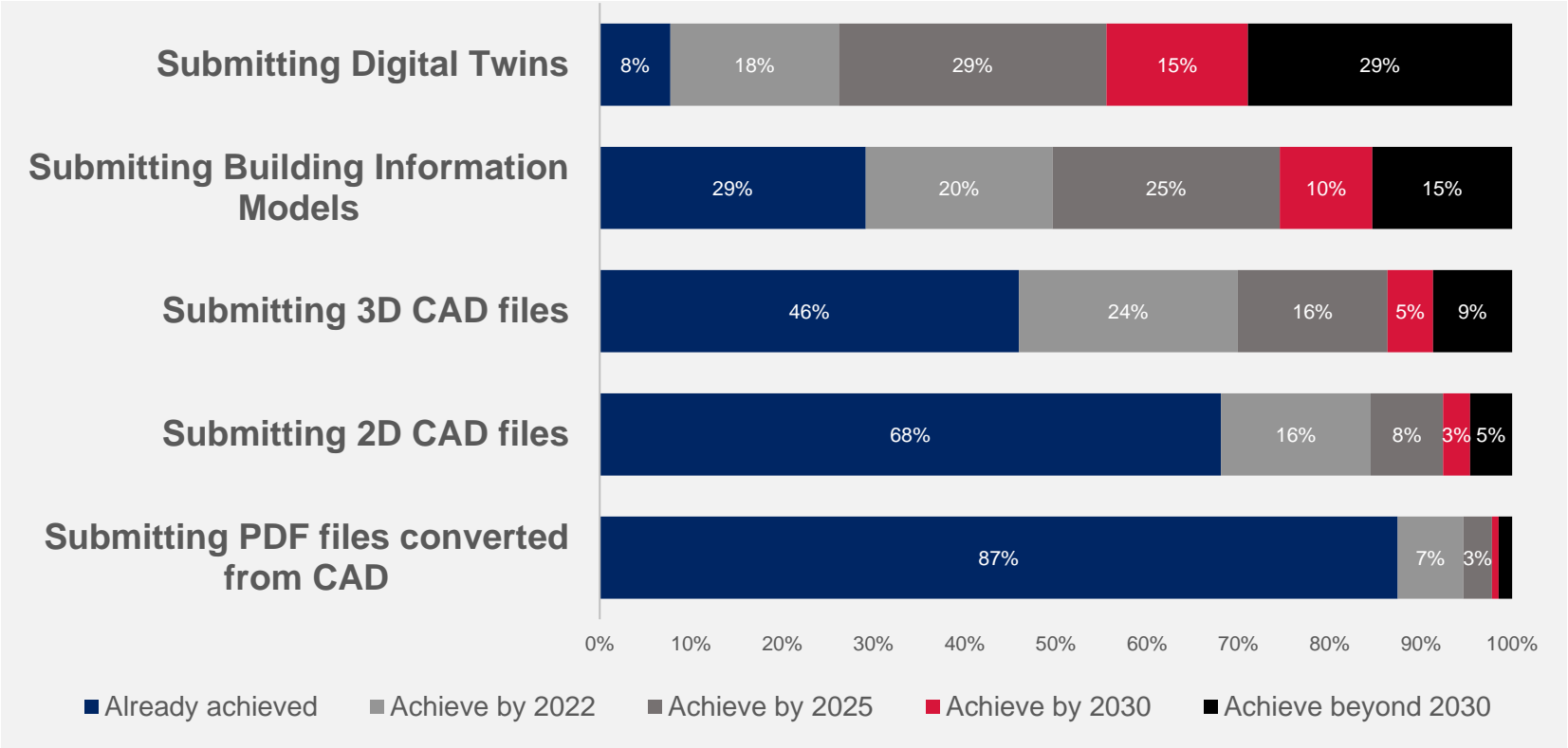
(...also Developers / applicants)



# Accountability through technology – establishing digital ‘twins’ for buildings and practitioners



# We need to help lift the industry's digital capability – most builders and designers are small businesses using 2D CAD



**BDAA was a supporter of the Western Sydney University digital survey of 1450+ class 2 design and construction organisations. Report to be released in June**





# Ongoing professional education is critical to raising standards




Learn how to do it better  
next time

Online short courses  
(and CPD)

Case studies for  
Toolbox Talks

 <b>QUALITY CONSTRUCTION CARD</b> Learning Required The value of Australian Standards	<b>STUDENT COMMITMENT</b> The value of Australian Standards
	Name: _____ Date: _____ Work site: _____ Signature: _____ <small>For the Office of the Quality Construction Inspector</small>
 GRC Construct NSW Building Stronger Foundations	Complete this learning module within two weeks at your own cost. The module may contribute to CPD points.



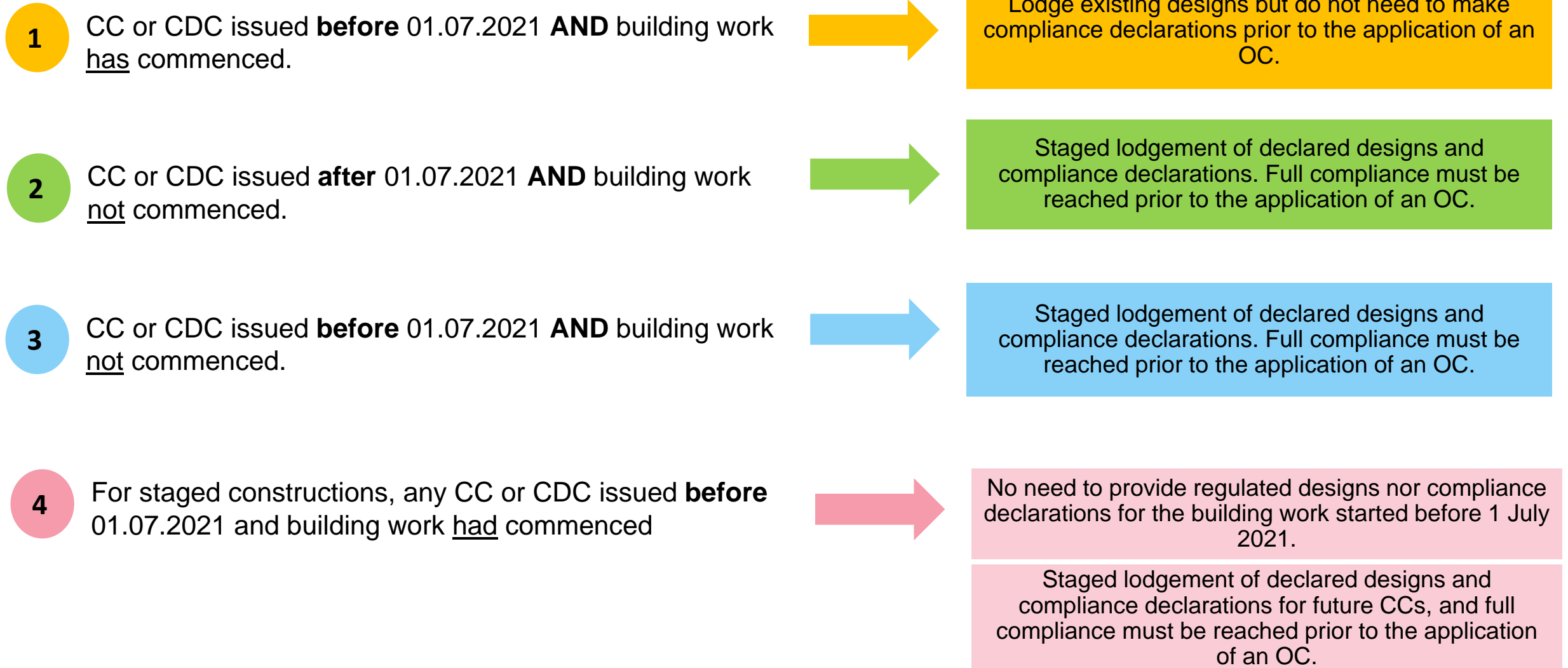
<b>Title</b>	
Summary of issue	
	Incorrect way (with diagram/image & brief description)
	Correct way (with diagram/image & brief description)
Action needed & Why	
For more information scan the QR code 	

 [training.tafensw.edu.au/constructnsw/](https://training.tafensw.edu.au/constructnsw/)

Is your project in or out?



# The CC/CDC issue date and whether building work has started determine whether projects are in/out



# Skills, experience & education



# Builders and Designers (all classes)

Must be able to prove that you:

- meet the **qualification, knowledge, skills and experience** requirements
- have successfully completed the pre-registration learning requirements
- are at least 18 years of age
- are a suitable person to carry out the work
- meet insurance requirements
- pass a national police check.

# Design (low rise) – 2000m<sup>2</sup> floor area, not A or B

## Skills

Must be able to interpret, apply and assess compliance with the relevant requirements of the BCA

Apply and assess compliance with relevant standards relating to the design of a building, including materials, finishes, fittings, components and systems of a building relevant to the class of registration.

## Experience

5 years practical which is:

Recent – at least 5 years (or equivalent part-time) experience within the last 10 years, including at least 2 years Australian experience.

Relevant – experience relevant to this class of registration involving a class 2, 3, 9a or 9c building.

## Qualifications

Diploma in Building Design or Diploma in Architectural Drafting

Must be from an NVR registered training organisation

## Knowledge

Must know and understand the following.

- Design and Building Practitioners Act and Regulation
- Environmental Planning and Assessment Act and regulations relevant to the class
- Building Code of Australia (volumes 1 and 2) relevant to the class
- Building design and construction, including methods, materials and planning relevant to the class of registration

# For all classes of designers visit the Fair Trading website



 <https://www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/design-and-building-practitioners/eligibility-criteria>

# Time to change your contracts

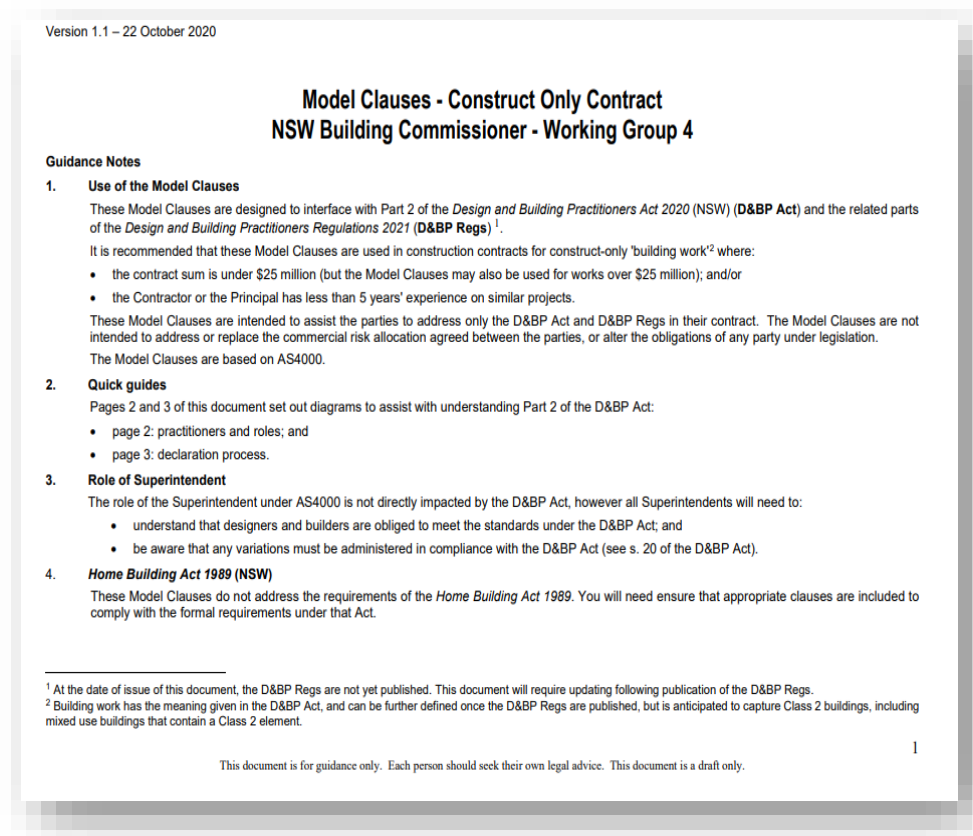




# What terms and conditions to consider changing?

- Guidance developed by group of industry practitioners
  - A construction-only building contract
  - A design consultancy agreement

- Interpretations
- Warranties
- Novation
- Expected risk
- As-builts
- Variations
- Contractors default
- Quick guides, etc..



- 'Strengthening contracts and standards' on Construct NSW website
- Consult Australia guidance

# Contracts should also consider pricing, eg:

- Allow for sufficient site inspections from designers, builders, engineers to observe and endorse built form
- Designer to be available for variations



# Insurance

- Transitional period from 1 July 2021 to 30 June 2022 during which insurance will not be mandated as a condition of registration
- This is intended to enable the insurance industry to develop appropriate products, and to enable you to adjust to your new responsibilities
- Practitioners may have obligations under other legislation that requires them to be insured for other work before this date.

**We recommend that you hold adequate insurance to cover your liabilities**

# The rest...



# Code of Practice

- All Design and Building Practitioners must comply with a Code of Practice that sets out required professional and ethical standards.
- The Code includes the duty to:
  - ✓ act in a professional manner
  - ✓ act within their level of competence and expertise
  - ✓ maintain satisfactory level of competence
  - ✓ avoid conflicts of interest
  - ✓ maintain confidentiality.
- The Code is in Schedule 4 of the Regulation

# Continuing Professional Development (CPD)

- All Design and Building Practitioners must complete at least 3 CPD hours each year
- Must use courses available from the Construct NSW Digital Learning Platform and ABCB NCC CPD system
- Written records should be kept as evidence (certificates)
- CPD guidelines:  
[https://www.fairtrading.nsw.gov.au/\\_data/assets/pdf\\_file/0010/979372/CPD\\_Guidelines\\_Practitioners.pdf](https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/0010/979372/CPD_Guidelines_Practitioners.pdf)

# Regulation and education





# A new approach to compliance from a more proactive regulator



Audits of building work and designs during construction (pre-OC)



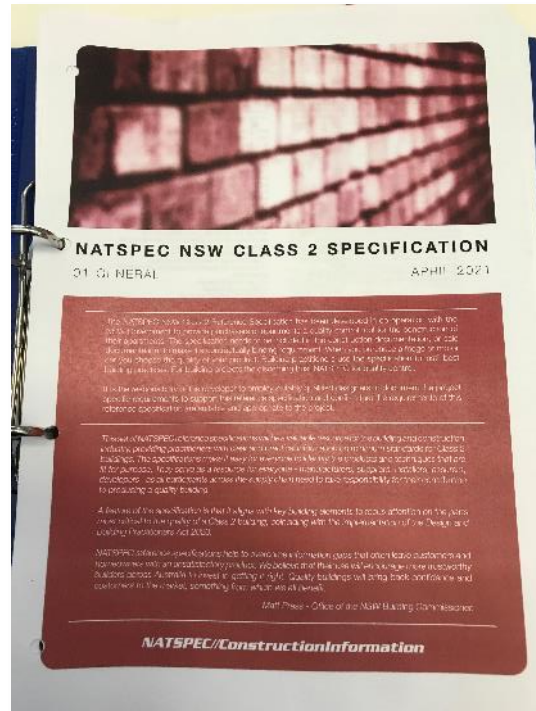
Using data to focus on the high-risk players and projects



Multidisciplinary review panel for class 2 complaints



# It's all about the key building elements – new information that's relevant, accessible & affordable



## NatSpec Class 2

10 elements or full set

\$33 per apartment



## Small Biz Packs

9 elemental packs

Around \$200/pack

Key standards included

# How to prepare?

Visit the NSW Fair Trading website:

<https://www.fairtrading.nsw.gov.au/housing-and-property/changes-to-class-2-buildings>

Watch short explainer videos

Complete the online learning modules

If you are not registered

Fined



Disciplinary action



Unlawful to charge clients



Available on the [Construct NSW Digital Learning Platform](#):

1. [Navigating the Design and Building Practitioners \(DBP\) Legislation](#) learning module
2. [The value of Australian Standards](#) learning module

*Mandatory for Design Practitioners and Building Practitioners*

From 1 July: register on the Service NSW website

# Let's lift standards to bring back pride, confidence and customers



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)