

# Resetting the NSW construction industry

Achieving a viable and resilient market  
Consumer interests are paramount

**David Chandler OAM, NSW Building Commissioner**

Friday, 5 May 2023

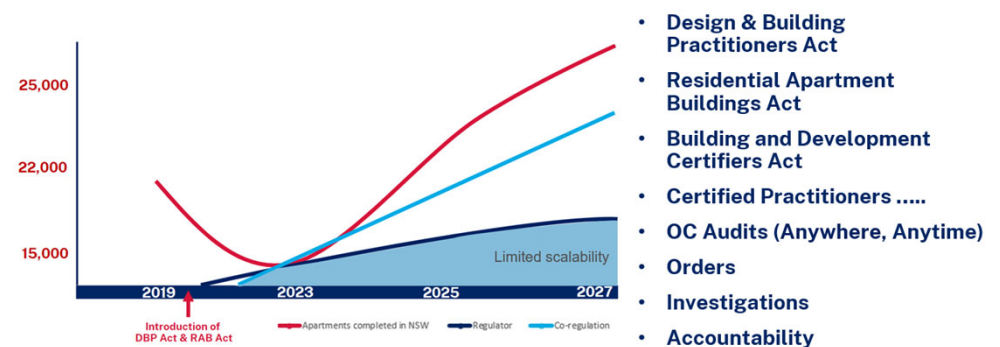


# Unprecedented reshaping of our industry

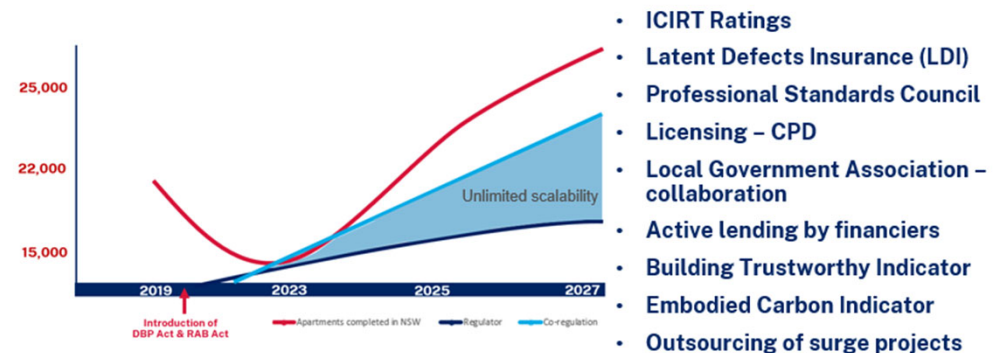
- Continuing to restore consumer confidence to get construction apartment starts to 30,000K pa – NSW Reforms continue
- Preparing to engage with rapidly aging building stock – **50,000 strata buildings will be over 30 years of age by 2030**
- Improving productivity the critical challenge – Embracing modern construction methods
- Embracing a low embodied carbon future
- Attracting tomorrow’s workforce
- Navigating today’s financial and business risks Ensuring developers and builders have robust businesses – **the here and now**



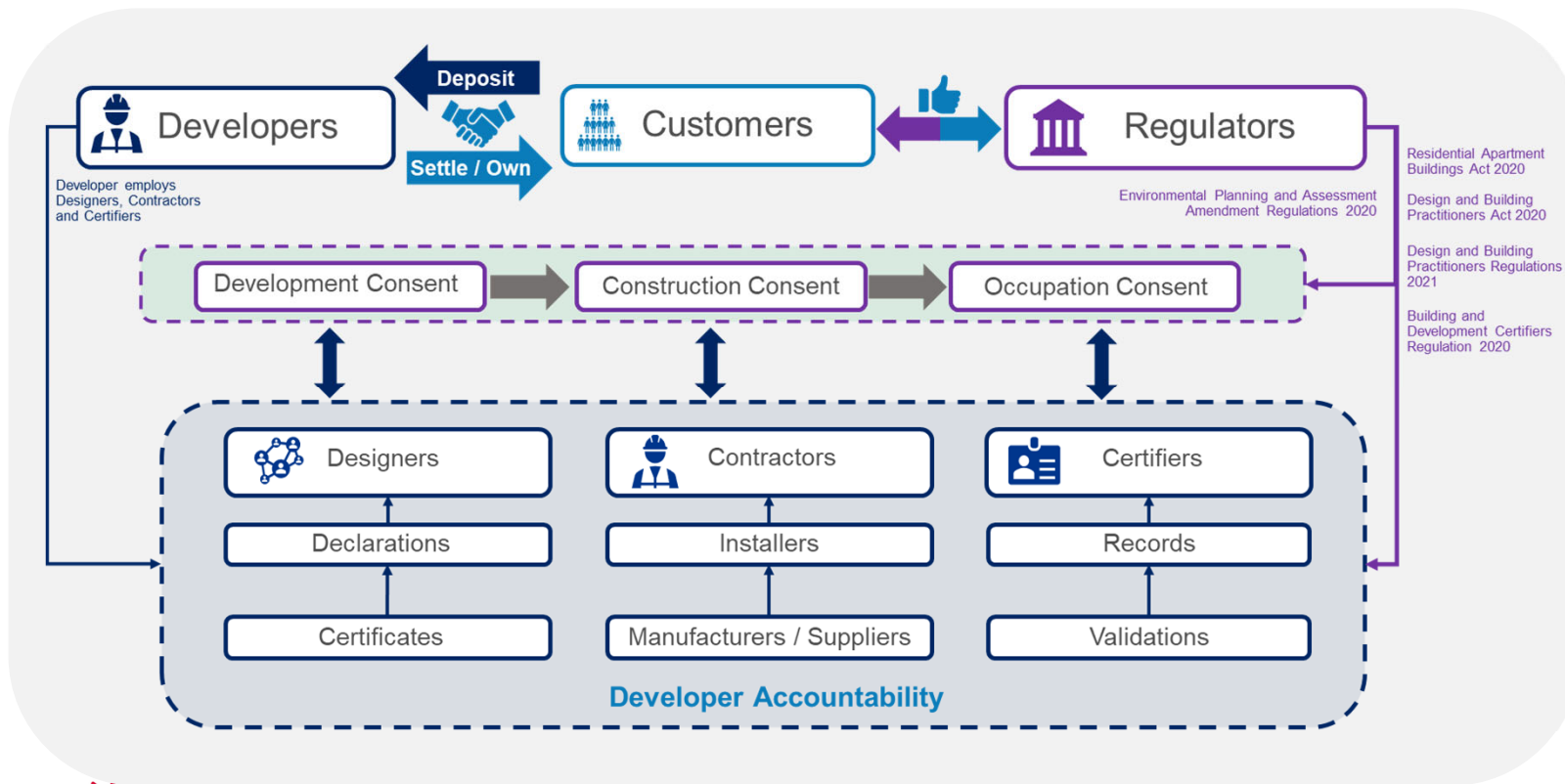
## Growing core regulator capability (Class 2, 3 & 9c buildings)



## Growing complementary industry governance (Class 2, 3 & 9c buildings)



# Developers are progressively putting consumers first



*“For slow movers, the great reckoning is here: the birds are coming home to roost”*

# NSW building reforms – key steps so far

## Quality Assurance – RAB Act

- **BWRO/BWSW Os** can be issued by the NSW Fair Trading to address non-compliance **BUT** are **not a substitute for builders completing QA**

## Declared Designs – DBP Act

- **Declared designs** and **as-built documentation** must be provided by practitioners under the DBP Act to ensure **accountability** and **identify** potential latent defects

## Key messages for project restructures

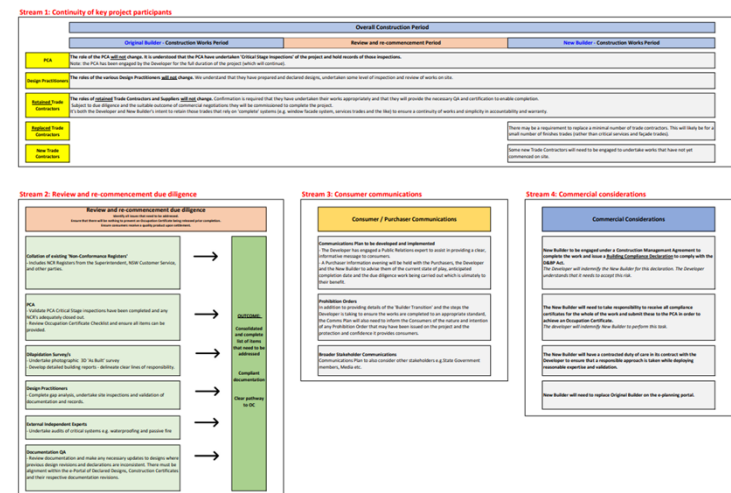
- There must be a continuity of design declarers
- There must be a 'as built' construction declarer for the whole building
- Certifiers must:
  - Notify the Building Commissioner of impending completions six months ahead
  - Ensure they have building practitioners declaration before OC issued
  - Ensure strata bonds have been lodged

# Resetting distressed projects will need a roadmap

## 4 key streams to ensure a successful re-commencement and completion of the project

Stream 1	Stream 2	Stream 3	Stream 4
Continuity of key project participants	Review and re-commencement to due diligence	Consumer communications	Commercial Considerations

### Builder Transition Plan: 4 key streams to ensure successful re-commencement and completion of the project



[Click Here to view the full a Project Recovery Plan](#)

# Resetting challenges developers, financiers, designers and contractors



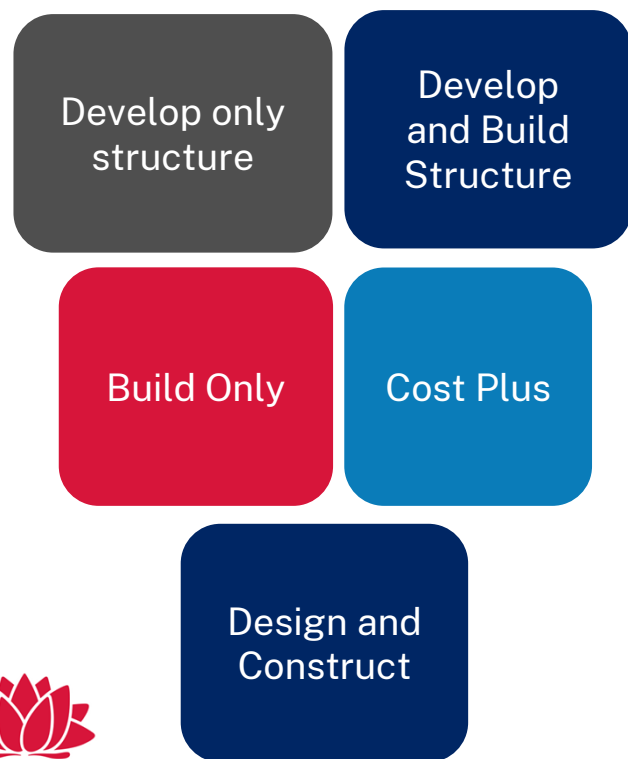
**Establish clear lines of responsibility and accountability, reducing the risk of disputes/complications for all parties involved in the project.**

- Lack of continuity and responsibility is leading to legal disputes and complications for consumers.
- SPVs face challenges in providing indemnification to builders when they are not responsible

**Solutions may include:** New contract terms where developers may indemnify consultants and builders for some work done by prior developers and others to ensure clear continuing accountability.

# Types of Contracts

Mitigating insolvency risks and protecting consumers in construction projects requires a combination of strong governance, due diligence, and careful decision-making by developers, financiers and other players.



- **Developer decision-making** is key to the **success of a project**, with good choices leading to reduced insolvency risks and better outcomes for consumers.
- **Active project governance**, monitoring and risk identification, is essential for mitigating insolvency risks and ensuring compliance with laws and regulations.
- **Proper due diligence**, conducted by banks and financiers to identify and address insolvency risks in developers and other players in the project.
- **Completion undertakings and securities** will be required in most of these procurement models from financiers, developers, and/or receiver managers.



# Out of this transformation phase will come tomorrow's great contractors

There are opportunities for new, successful contractors to emerge in NSW.



New contractors must learn from past experiences and comply with laws and regulations.



Compliance with laws and regulations mitigates insolvency risks and ensures accountability.



Emerging contractors must prioritise active project governance, financial management, proper documentation, and **iCIRT** rating

With proper regulation and compliance, **emerging contractors can succeed** and provide high-quality construction work that protects consumers.





# Q&A

[Construct NSW Website](#)

[Communicating to Build Stronger Foundations module](#)

[DBP Website](#)

[Waterproofing Design Principles module](#)

[DBP Act](#)

[iCIRT - BuildRating.com](#)

[RAB Act](#)

[Contact Equifax re. iCIRT](#)