Customer Service

Embedding Construct NSW

Evaluation report

Contact details

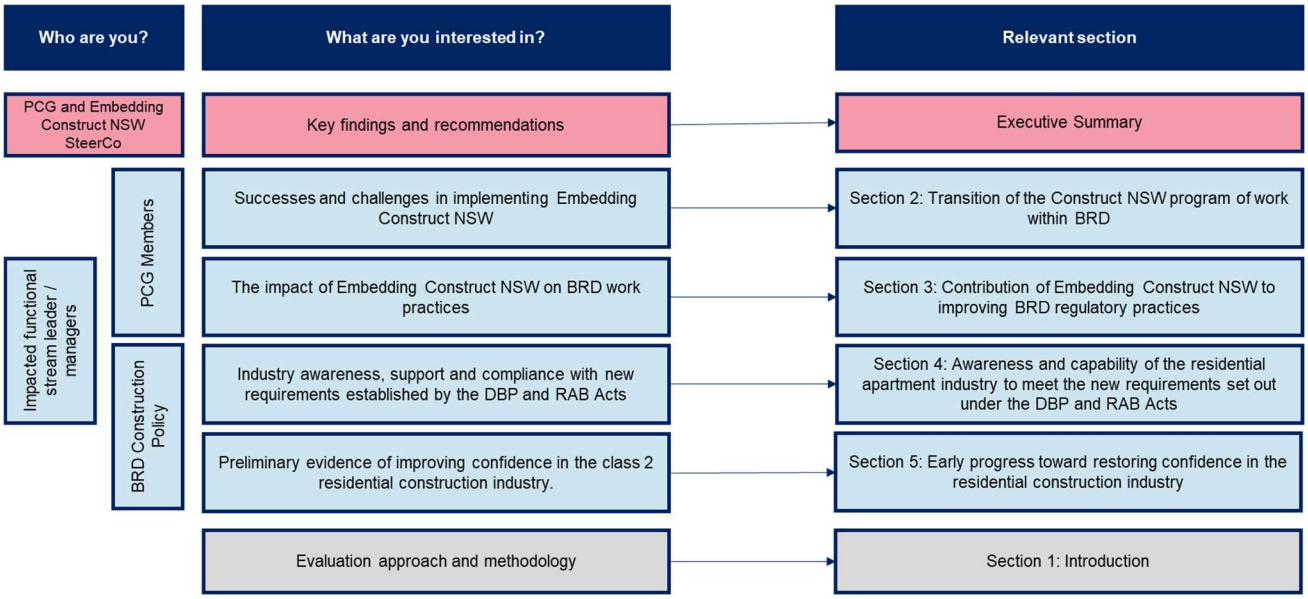
Business Unit: Research & Evaluation	Division: Better Regulation Division
Email: Evaluation@customerservice.nsw.gov.au	

This document

How to read

This report has several levels of reading depending on the role or perspective of the reader as explained in the reading guide pictured in Figure 1. Sections have active headings in the form of key findings to make it easier for the reader to identify areas of interest.

Figure 1: How to read guide



Acknowledgement

We would like to thank key informants we interviewed as part of this evaluation. We thank them for their time and insights and trust that their views are adequately represented in this report.

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Executive summary

The Embedding Construct NSW program

The Embedding Construct NSW program is a greenhouse program in the NSW Department of Customer Service (DCS) Connect Strategy 2020-2023 for the Better Regulation Division (BRD). At its core, the Embedding Construct NSW program is about integrating new regulatory processes established under the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (RAB Act), *Design and Building Practitioners Act 2020* (DBP Act) and other activities arising from the Office of the Building Commissioner's (OBC) Construct NSW strategy into operational practice within BRD. By doing this, the program encourages strong collaborative relationships between BRD functional streams and individual agencies responsible for regulating the construction industry, in particular, the OBC, SafeWork and Fair Trading. These collaborative relationships are helping to establish a strong nexus between the safety and quality of class 2 residential buildings and construction sector more broadly.

The evaluation

The evaluation aimed to ensure that BRD is on track to successfully operationalise the Construct NSW program of work by September 2022, in particular the requirements under the RAB and DBP Acts. The evaluation had three objectives:

1. Determine whether the Construct NSW program of work is on track to be successfully transitioned to BRD
2. Assess the extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices
3. Assess what early progress has been made under Construct NSW towards restoring confidence in the Class 2 residential construction industry.

The evaluation relied on a mix of qualitative and quantitative methods, combining reporting data, staff surveys, an industry survey, and interviews with key stakeholders.

Limitations

The data collected provides a sound basis for the evaluation to draw conclusions about the program. It should be noted however, the evaluation does not contain consumer input about their experience with the reforms. A consumer survey was attempted as part of the evaluation to reach homeowners and strata organisations that lodged complaints with Fair Trading about defects in their property and measure their level of confidence in the regulator and industry more broadly. However, system limitations within the Fair Trading Complaints Administration System (CAS) meant that it was unable to identify the correct target group for this survey. This issue is being addressed as part of a separate project involving the CAS administration and regulatory capability teams. Whilst the evaluation was unable to incorporate consumer experiences, it is anticipated that consumer confidence in the Class 2 industry will be

measured as part of separate market research commissioned by the OBC which is expected to be completed in April 2022.

Key findings and recommendations

The key findings and recommendations of the evaluation are outlined below:

Transition of the Construct NSW program of work to BRD.

BRD staff mobilised rapidly to operationalise the DBP Act and integrate the RAB Act.

Staff surveys and interviews revealed BRD was initially unprepared to deliver the Embedding Construct NSW program. However, follow up surveys in August and November 2021 found that BRD functional streams were able to adapt quickly, over a short period of time, to operationalise the DBP Act and integrate the RAB Act into regulatory practice. The evaluation found that the rapid adaptation of BRD was achieved through the establishment of robust governance to coordinate activities being undertaken across the division, improving collaboration across functional streams and between directorates. This rapid adaptation was also assisted by targeted information sharing efforts undertaken to bring key operational staff up to speed with the impact of the Embedding Construct NSW program of works. By November 2021, almost all functional streams had reported skills and capability uplifts within their areas as a result of the Embedding Construct NSW program, in particular improved technical and regulatory capability and the improved use of data in informing regulatory decisions.

Initial implementation of Embedding Construct NSW has been successful. Developing a clear vision for what long term success of Construct NSW looks like within BRD will help to guide further transition.

Limited forward planning amongst key functional streams meant that the initial implementation of the program was disjointed across BRD teams. This situation was somewhat unavoidable due to competing activities within BRD at the time, including the disruption caused by the realignment of BRD into functional streams in 2019/2020. Given the broad scope, complexity and degree of change required within functional streams to deliver the regulatory model required under Embedding Construct NSW, interview participants also indicated that dedicated project management resources were needed from the outset and that the project planning phase would have ideally commenced at least 12 months prior to when the legislation commenced. Despite this, the evaluation found that BRD was able to adapt quickly to ensure the requirements under the legislation were met, overcoming most implementation challenges that arose over the course of program delivery.

Recommendation 1: Further rollout of the Construct NSW program should be supported by a timely and robust delivery plan which is communicated to all impacted functional streams and includes dedicated project management resources.

In terms of governance and risk management, the establishment of the Program Control Group (PCG) and Embedding Construct NSW steering committee was an effective means of coordinating effort across BRD functional streams. However, there was a view held by some staff that some functional streams were hesitant to report the extent of delays and risks to program delivery. Further, functional streams had a limited understanding about the vision, purpose and objectives of the Construct NSW strategy and what its success would look like within BRD. It was felt that having a clearer understanding about the overall aim and objectives of the Construct NSW strategy would improve BRD's success in delivering it over the long term, including a better understanding of the roles and responsibilities for each functional stream in regulating the class 2 residential industry.

Recommendation 2: The OBC and BRD functional streams should have clear and defined roles to deliver Construct NSW. This includes clarifying the long term vision and objectives for Construct NSW in BRD, supported by clear and measurable targets.

On the development and use of key systems, almost all interviewees acknowledged the strong benefit provided by the systems built and leveraged to support delivery of the Embedding Construct NSW program, including improved access to data to inform regulatory decisions. However, some participants acknowledged that staff may not yet be fully leveraging and utilising these systems and data to support their work. This is consistent with survey results and systems use data which suggest that staff use of systems established or leveraged to support delivery of the DBP and RAB Acts (whilst gradually improving) remains generally low. The evaluation identified two key factors inhibiting the use of these systems. First, some systems were developed with a greater degree of separation between the intended users and the development team which ultimately resulted in these tools not being fit for purpose for many intended users. Second, without discounting the need for intended users to responsible for the design and ultimate acceptance of new systems, it was suggested that another driver for the underutilisation of systems may be related to the existing digital capability of staff in some areas. This was resulting in these systems being used mainly for reporting purposes but not necessarily to inform regulatory decisions.

Recommendation 3: BRD should ensure that intended users of new systems developed to support regulatory activities are accountable for approving their design to ensure they are fit for purpose; and, ensure existing systems intended to support further delivery of the Construct NSW regulatory model (such as AMANDA) are functional for both the customer and regulator.

Recommendation 4: BRD should explore whether existing digital capability amongst BRD executives and staff is at an appropriate level to ensure that systems built to support the Construct NSW program are fully leveraged and deliver targeted interventions to uplift these skills where it is necessary.

Currently, the bulk of industry engagement is still be led by the OBC through the externally-focussed Construct NSW Pillar working groups. Industry stakeholders noted that the success of the Construct NSW strategy to date had been due to the high level of engagement with industry along with the dynamism of the OBC to create change within the industry at pace. As a result, some had concerns about the sustainability of the reform agenda, particularly following the planned decommissioning of the OBC in September 2022. To assist in the transition of broader elements of the Construct NSW strategy to BRD and to ensure the initial momentum of the reform agenda is maintained over the long term, regular and transparent industry engagement that focusses on a transition from the OBC led approach to one led by BRD, should be prioritised to ensure industry buy in and acceptance of the new regulatory framework. This will require enhanced communication and collaboration between relevant OBC and BRD representatives.

Recommendation 5: As part of transitioning responsibility for delivery of the Construct NSW program of work, the OBC and BRD should collaborate to develop a clear plan to hand over responsibility for external stakeholder engagement to ensure that direct and regular industry engagement is maintained.

Encouraging the entry of Decennial Liability Insurance should be the next priority initiative under the Construct NSW program. Beyond this, further internal work is needed to plan for and sequence the remaining elements of Construct NSW.

The evaluation found that most internal staff had limited awareness about the broader Construct NSW strategy whilst external interviewees emphasised that the Construct NSW strategy was holistic in its approach to transforming the regulation and operation of the industry, and all pillars were important for continued delivery. As a result, the OBC and BRD executives should prioritise planning for the transition of the remainder of the Construct NSW strategy to ensure it is completely transitioned to BRD by September 2022.

Recommendation 6: The OBC and BRD should work to identify and prioritise Construct NSW pillars not yet transitioned, including a clear pathway for how these initiatives would be practically implemented and what BRD streams would be responsible for their delivery. This plan should then be communicated to staff from impacted functional streams to improve awareness and ensure activities are adequately planned for and resourced.

Both internal and external stakeholders identified the establishment of Decennial Liability Insurance (DLI) and the Independent Construction Industry Rating Tool (ICIRT) ratings system as key components to ensuring appropriate consumer protections to improve confidence in the industry, ease regulatory burden on government and improve the overall sustainability of the regulatory model. However, the evaluation noted some concern by industry stakeholders

about the potential to limit the ability for small and medium sized businesses operating in the class 2 residential industry.

Recommendation 7: As part of the introduction of ICIRT and DLI, BRD should work with industry to ensure this form of market regulation does not disproportionately impact the industry, and consider the potential need for exclusion of small and medium sized businesses operating in the sector.

Extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices.

Proactive regulation is occurring within BRD, led by improved collaboration and data-driven decision making.

Interviewees representing all impacted functional streams reported that data and systems available to BRD as a result of the Embedding Construct NSW program were improving BRD's understanding of risk and its capacity to take a risk-based approach to regulation. The evaluation also observed that collaboration between BRD functional streams and directorates is improving. Further, there has been considerable effort between individual agencies to establish and operate under a joined up regulatory approach, which is resulting in positive regulatory outcomes across the construction industry. However, stakeholders highlighted that having a better understanding of what different organisations do and how they can contribute to regulation of the industry will improve overall collaboration. Further, as part of the evaluation a baseline level of coordination amongst BRD functional streams was measured, which may assist BRD executives to monitor further progress toward this outcome.

Recommendation 8: BRD functional streams should review the results of the baseline collaboration recorded by the November 2021 staff survey and collectively agree on whether the level of collaboration they have with other teams is at an appropriate level.

To aid in further transformation, the evaluation also found that improved access to and utilisation of specialised expertise in the field of Class 2 residential construction is needed. This was particularly the case for IRAS, which has limited expertise amongst building inspectors to manage complaints being received about Class 2 buildings. It is understood this need was identified in a recent internal review of the Consumer, Property and Building Directorate and work is already underway to address it.

Recommendation 9: BRD should seek to recruit more specialised expertise into IRAS to respond to enquiries and complaints about defects in class 2 buildings; and CDR to carry out compliance activities required under the new regulatory framework.

Finally, the evaluation observed that whilst there was still a need for improvement, there is evidence across all functional streams that proactive regulation was occurring. Internal stakeholders also noted that further transformation required a further cultural shift away from operating in silos and toward a culture of coordinating the regulatory functions across BRD to achieve Construct NSW objectives. The degree of organisational cultural change anticipated under Construct NSW is a long term outcome which will take some time to achieve, however, having greater clarity around the purpose, objectives and accountabilities of Construct NSW between the OBC and BRD, and within BRD functional streams, may aid in this shift (Recommendation 2). It is understood this need was identified in a recent internal review of the Consumer, Property and Building Directorate and work is already underway to address it.

There is some support for the regulatory model introduced by the Embedding Construct NSW program to be expanded but the capacity and capability of BRD to do this alone was of some concern.

Whilst Embedding Construct NSW primarily focusses on the transitioning responsibility for regulating the class 2 residential construction industry from the OBC to BRD, there has also been consideration for how the new regulatory framework could be applied to other classes of buildings and industries regulated by BRD. Whilst most stakeholders saw merit in expanding the regulatory framework established by the Embedding Construct NSW program, some were concerned about BRD's capacity to achieve this given the resource intensity required under the regulatory model. It should be noted here that BRD has recently been approved to expand its operational capacity to deliver the Construct NSW strategy and it is understood this expanded capacity is sufficient to deliver the strategy moving forward. Further, in order to expand the new regulatory model, both internal and industry stakeholders suggested that the market may be required to play a larger part in industry regulation over the medium term, particularly through the introduction of DLI that may help ease the burden on BRD and make the regulatory model more sustainable (Recommendation 6).

Awareness and capability of the residential apartment industry to meet the new requirements set out under the DBP and RAB Acts

Design and building practitioners are aware of, and capable of complying with, the changes introduced by the DBP Act.

The evaluation found that the awareness raising efforts of the OBC and BRD about the requirements of the DBP Act have been substantial. Further, industry associations representing practitioner groups have played a key role in engaging with their members to share information about the new requirements. Despite that, some industry stakeholders indicated there may be a need for more targeted engagement and awareness raising amongst practitioners operating in regional areas where there is less Class 2 development occurring.

Recommendation 10: BRD should conduct post-implementation research to understand the extent to which awareness about the DBP Act has increased from baseline levels recorded

in the OBC's building and design practitioners digital capability research, and to identify areas where low awareness of the reforms remains so that more targeted educational and awareness raising campaigns can be rolled out.

Feedback provided by registered practitioners indicates they have been able to complete the mandatory training modules and register under the DBP Act with relative ease. Despite this, the evaluation recorded feedback from some practitioners that they found the registration requirements confusing, particularly in terms of what practitioner types they should apply for and the type and extent of documentation they needed to provide to prove their credentials. Further, some practitioners and industry organisations identified that the registration requirements were excessive, in particular architects and engineers who are already required to meet certain requirements to work in the industry.

Recommendation 11: BRD should continue to work with industry to clarify and refine (if/where required) the registration requirements for design practitioners, including developing more detailed guidance material about the practitioner classes they should apply for and the type and extent of documentation they need to provide to prove their credentials.

Practitioners also appear to be capable of submitting compliance declarations, however, at the time of writing, the design audit quality assurance function within BRD had not commenced (it commenced in early 2022). As a result, the evaluation was unable to draw conclusions about the quality of regulated designs and associated compliance declarations submitted to date.

Recommendation 12: To ensure practitioners are capable of complying with the declaration requirements established under the DBP Act, BRD should prioritise the rollout of the design audit function to ensure that the quality of lodged declarations complies with the requirements of the DBP Act.

It is also worth noting that during interviews some practitioners noted experiencing difficulties in lodging such declarations. These challenges are largely related to technical limitations in the ePlanning portal, such as glitches erasing the progress of practitioners during online submission that often requires the reuploading of documentation.

Recommendation 13: BRD and DPE should work together to improve the user experience of the ePlanning portal to allow practitioners to lodge compliance declarations with greater ease.

Design and building practitioners are aware and broadly capable of complying with the changes introduced by the RAB Act.

Website traffic data and interviews revealed that practitioners' awareness of the RAB Act requirements have increased over time, with noticeable gains in awareness achieved since July 2021. Industry practitioners are providing the regulator notice of expected completion and the

regulator is actively inspecting the quality of these buildings under the various inspection and audit mechanisms under the RAB Act. However, the evaluation observed some discrepancies between relevant functional streams in the total number of audits/inspections undertaken since commencement of the RAB Act. Consultation with representatives from the OC Audit team indicate that part of the challenge in keeping up to date records is due to the multiple systems they are required to use. A consolidated and more user-friendly record keeping system would benefit this team, along with in ensuring a single source of truth for key performance information about RAB Act activities.

Recommendation 14: BRD should investigate the systems needs of Inspectors undertaking building inspections and audits and either explore options to integrate the needs into the upcoming AMANDA compliance platform build or adapt current systems available to ensure they are fit for purpose, or establish a new record keeping / audit system to more effectively support RAB Act activities.

The residential apartment industry is supportive of the DBP and RAB Acts and the processes implemented to operationalise them, but there is some concern about unintended consequences.

All industry stakeholders that participated in interviews welcomed the changes brought in by the DBP and RAB Acts, noting that it brought improved and shared accountability for all practitioners working in the Class 2 residential construction industry. Despite this support, industry stakeholders expressed some concern about the unintended impacts of the regulatory regime, including:

- increasing costs for practitioners and the end consumer of new Class 2 residential buildings. These costs were expected to come from increased demand for design work, along with increasing insurance costs.
- that “dodgy” players were moving to classes that don’t have the same regulatory framework and practitioner requirements imposed. Equally, some good players may decide to stop working on Class 2 until they feel certain about the registration and the new declaration process.
- that the regulatory model had the potential to exclude some practitioners they believe are qualified to design Class 2 buildings and constrain supply of labour to the industry.

Recommendation 15: In partnership with industry, BRD should work to actively monitor the unintended impacts of the reform agenda, including as a priority:

- the extent and drivers of design and construction costs for Class 2 buildings for practitioners and end consumers
- the movement of practitioners from Class 2 sector to other classes of buildings
- the supply of labour to Class 2 buildings.

Early progress towards restoring confidence in the residential construction industry

The evaluation was unable to conclusively determine whether confidence in the Class 2 residential construction sector had improved as a result of the Embedding Construct NSW program. This is largely due to the recency of the reforms (and consequently the absence of robust outcome data) and limited baseline information about the consumer experience of the reform agenda. More broadly, there appears to be a degree of ambiguity about how confidence is defined and ought to be measured in the sector. As a starting point, the evaluation has considered whether there is evidence to suggest consumer confidence in the industry and the built product has improved, as well as industry and consumer confidence in the regulator.

Recommendation 16: In partnership with the OBC and industry, BRD should work to define and develop a measurement framework around confidence in the Class 2 residential sector to enable transparent monitoring of this outcome.

However, the evaluation has found that that the industry is generally supportive and capable of operating under the new regulatory framework. The evaluation also observed that the reforms have contributed toward positive and immediate impacts in the sector (below).

Preliminary evidence to suggest confidence in the Class 2 residential building sector may be improving.

The evaluation found that practitioners are utilising the Construct NSW learning management system to actively engage in further learning to improve their industry knowledge and capability. Similarly, the evaluation found the incidence rate of serious defects in audited Class 2 buildings had reduced between September 2020 and November 2021. However, it should be noted this trend only captured serious defects in audited buildings and is not necessarily indicative of building quality across the sector more broadly. Further, the evaluation has observed that reductions in serious defects in audited buildings have steadied throughout 2021 and further engagement with industry may be necessary to identify opportunities to further reduce the incidence rate of serious defects.

Recommendation 17: Continue to engage industry with serious defect data collected by the OC Audit program to understand the reasons why serious defects remain in audited Class 2 buildings and co-develop an action plan to further reduce their incidence rate.

In discussing whether these gains have translated into increasing consumer confidence, all industry participants noted that it was too early to observe the impact of the reforms in the industry as, at the time of writing, there hasn't been a building completed under the new regulatory framework. Further, many external stakeholders also noted that the current discourse about Class 2 buildings in the media was mostly negative and was unlikely to be contributing toward improving confidence amongst consumers about the quality of Class 2

stock. Many felt it was time for the OBC, BRD and industry more broadly to begin to balance public discourse about the Class 2 residential sector by publicly celebrating progress and good practices observed in order to contribute to building confidence within the broader community. There is evidence that this is starting to occur, for example, the OBC have publicly recognised the efforts of some practitioners in commencing and achieving their ICIRT rating.

Recommendation 18: In partnership with industry, the OBC and BRD should continue to provide balanced communication to the broader public on progress made to date in delivering the Construct NSW reform agenda based on robust and transparent performance information available.

Whilst improving confidence in the industry and built product remains unclear, there was broad agreement amongst industry stakeholders that the reform agenda had made some contribution to increasing industry confidence in the regulator. However, as noted previously, industry stakeholders also stressed the importance of continued momentum and engagement with industry to ensure this confidence is maintained. Given data limitations, the evaluation was unable to determine whether consumer confidence in the regulator has improved. However, the evaluation did find that industry regulators were becoming more efficient at managing complaints about Class 2 buildings which may lead to improving consumer confidence over time.

In December 2021, the OBC commissioned market research to understand the drivers of consumer confidence and trust to purchase apartments, addressing an important gap in knowledge with regard to restoring confidence in the sector. The results of this baseline study are expected in April 2022 and should be considered by BRD and monitored over time to improve understanding about, and inform strategies toward, improving consumer confidence in the sector.

Recommendation 19: BRD should consider the results of the consumer confidence baseline study commissioned by the OBC to develop strategies that target current pain points for consumers of Class 2 residential buildings. Importantly, this area should be monitored over time to demonstrate progress.

Introduction

The Embedding Construct NSW program

The Embedding Construct NSW program is a greenhouse program in the NSW Department of Customer Service (DCS) Connect Strategy 2020-2023 for the Better Regulation Division (BRD). 'Greenhouses' are signature division level projects that deliver significant customer value. As outlined in the BRD 2021-2022 Delivery Plan, Embedding Construct NSW connects BRD and the Office of the Building Commissioner's (OBC) key activities to support the transformation of the regulator to deliver best practice regulation of the building and construction sector.[1] This includes encouraging collaborative relationships between BRD functional streams and individual agencies responsible for regulating the construction industry, in particular, the OBC, SafeWork and Fair Trading, to ensure the safety and quality of class 2 residential buildings and the construction sector more broadly.

The Construct NSW strategy

The Construct NSW strategy is the NSW Government strategy to address the industry and regulatory transformation needed to ensure consumer confidence in Class 2 residential buildings.[2] In 2019, the NSW Government established the OBC to lead major reform in the design and building industry as part of its response to the Shergold and Weir (2018) *Building Confidence: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* report.[3] In 2020, the OBC, through extensive industry engagement, developed the Construct NSW strategy which focuses on six areas of industry reform, often referred to as the 6 pillars of the strategy: regulation, ratings, education, contracts, digital tools, and data and research. As part of the regulation pillar, two new laws were introduced to protect homebuyers and transform the regulator's approach to deliver a customer-focused regulatory framework:

- The RAB Act came into effect on 1 September 2020 and provides the Secretary of DCS with a suite of investigation, rectification and enforcement powers for certain types of residential apartment building work and completed buildings. The RAB Act also establishes a mandatory developer notification scheme to obtain an occupation certificate (OC) for building work which is at least six months from completion.

[1] Department of Customer Service. (2020). Better Regulation Division Delivery Plan 2021-2022. Retrieved from: https://intranet.customerservice.nsw.gov.au/policies-resources/other-resources/teams/better-regulation/BRD-Delivery-Plan-2021-22-FINAL-v2.pdf
[2] Under the National Construction Code (NCC) Building Classifications, Class 2 buildings are multi-unit residential buildings where people live above and below each other. Class 2 buildings may also be single storey attached dwellings where there is a common space below (e.g. two dwellings above a common basement or carpark). Retrieved from: https://www.abcb.gov.au/Resources/Publications/Education-Training/Building-classifications
[3] Shergold, P. & Weir, B. (2018). Building Confidence: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia. Retrieved from: https://www.industry.gov.au/sites/default/files/July%202018/document/pdf/building_ministers_forum_expert_assessment_-_building_confidence.pdf

- The DBP Act was passed by Parliament in June 2020 and commenced on 1 July 2021, introducing two new registration schemes for practitioners working on residential apartment buildings: one for Professional Engineers and one for designers and builders. Designers and builders also have new obligations to declare and lodge designs and building work on the NSW Planning Portal (ePlanning).

The Embedding Construct NSW program design and delivery

The Embedding Construct NSW program commenced in February 2021. The program seeks to ensure the smooth transition of responsibility and ongoing management of the Construct NSW Strategy from the OBC to BRD as per the timeline outlined in Figure 2. By March 2022, the operational practices under the Construct NSW strategy will transition to BRD and must be embedded as business as usual service delivery by September 2022.

Figure 2: Embedding Construct NSW timeline

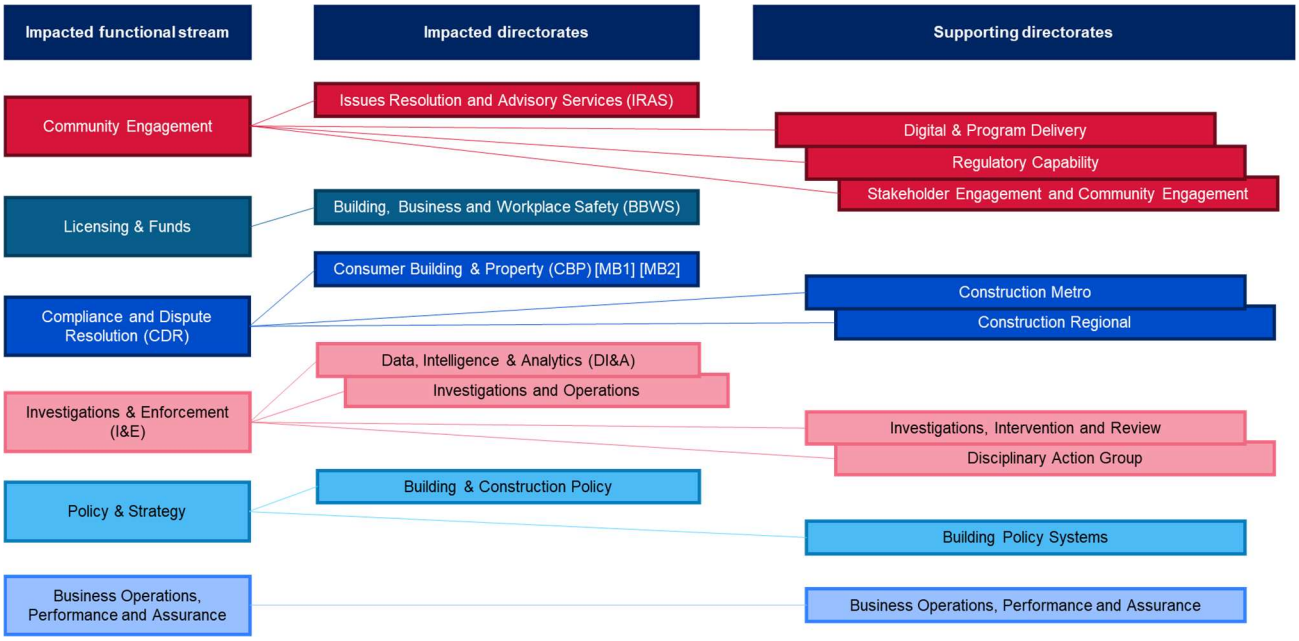
The Embedding Construct NSW program is made up of interconnected projects and activities focussing on systems, processes, change management and business transformation within the impacted functional streams (and BRD more broadly).

The **key program stakeholders** are:

- The Regulatory Capability team coordinating the delivery of the program4
- The OBC
- BRD staff from impacted functional streams, directorates, and agencies, along with several directorates involved in supporting delivery of the program (Figure 3).

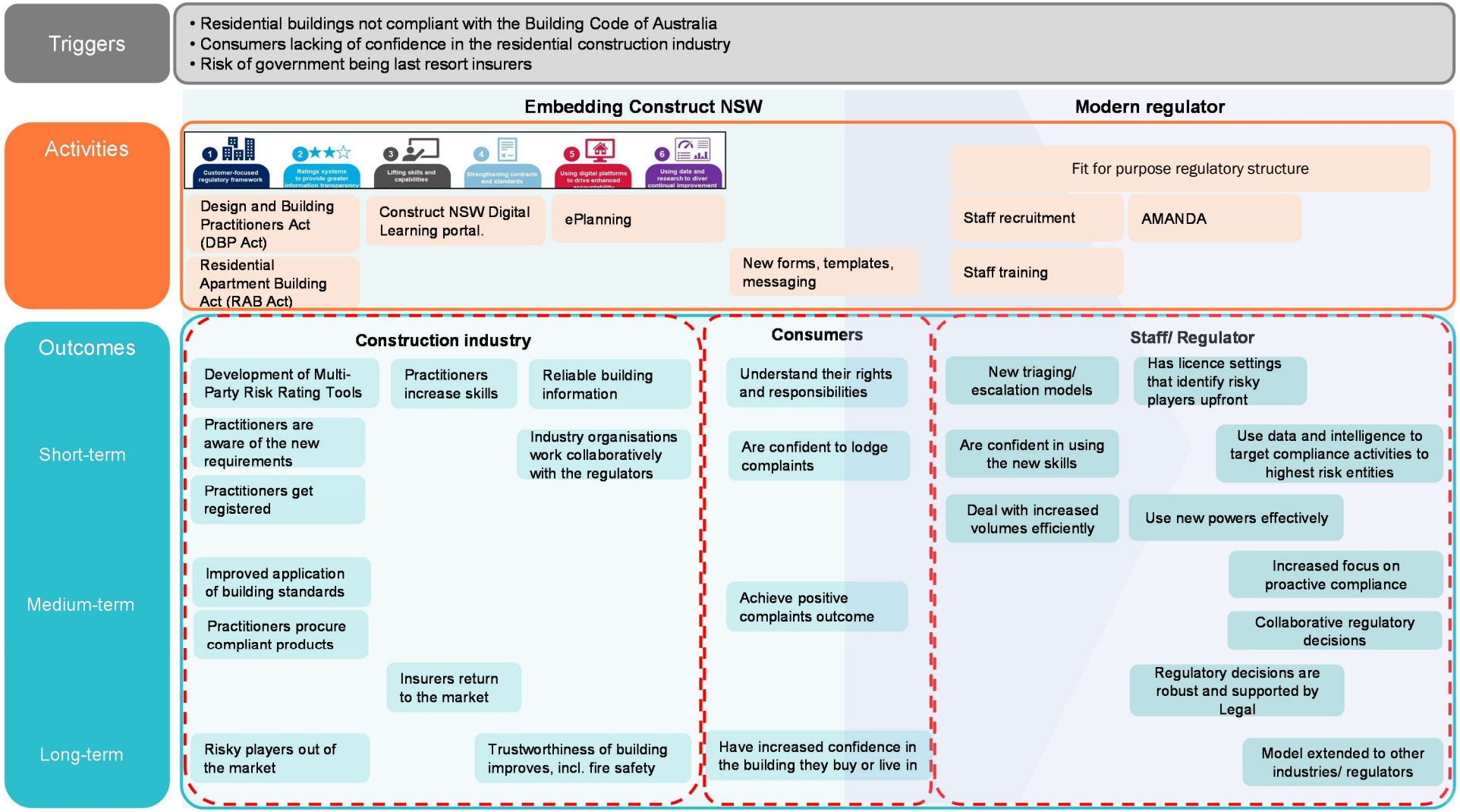
[4] The Regulatory Capability team within BRD took over delivery of the Embedding Construct NSW program of work in October 2021. Prior to this, the Business Operations Performance and Assurance team within BRD was broadly responsible for delivery.

Figure 3: Functional streams and directorates directly impacted by the Embedding Construct NSW program



The Embedding Construct NSW program also has a broader ambition of supporting BRD to become a modern and proactive regulator. The **program logic** in Figure 4 highlights this journey towards modern regulatory practices (i.e., co-regulation, risk-based, intelligence-driven, collaborative and integrated), whilst delivering on the intended outcomes of the Construct NSW strategy to improve compliance of the residential construction industry and restore consumer confidence.

Figure 4: Embedding Construct NSW Program logic



The evaluation

Purpose

The evaluation aimed to ensure that BRD is on track to successfully operationalise the Construct NSW program of work, in particular the requirements under the RAB and DBP Acts. Findings and recommendations from the evaluation will also inform a review by the Public Accountability Committee of the Legislative Council (PAC) that is required under section 109 of the DBP Act and section 69 of the RAB Act. The review is to be undertaken as soon as possible after 30 March 2022 and a report on the outcome of the review is to be tabled in the Legislative Council by 30 June 2022 (or by a later day determined by the Committee).

The evaluation had **three objectives**:

1. Determine whether the Construct NSW program of work is on track to be successfully transitioned to BRD.
2. Assess the extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices.
3. Assess what early progress has been made under Construct NSW towards restoring confidence in the Class 2 residential construction industry.

The boundaries of the evaluation were determined by the focus of the Construct NSW strategy on Class 2 apartment buildings. Other aspects beyond the Construct NSW strategy and the Embedding Construct NSW program were also excluded from the scope of the evaluation (Table 1):

Table 1: Scope of the Embedding Construct NSW Evaluation

IN scope	OUT of scope
Class 2 apartment buildings	Other classes of buildings in NSW, including class 1 buildings regulated under the *Home Building Act 1989*
Current delivery status of the Construct NSW strategy	Performance of elements of the Construct NSW strategy not yet transitioned to BRD Other actions taken by the NSW Government to respond to the Building Stronger Foundations report Other macro-economic factors influencing Class 2 housing

IN scope	OUT of scope
Embedding Construct NSW program as a large pilot to improve regulatory practices in BRD	Overall BRD transformation to a modern regulator across all regulators and industries

The intended use of the evaluation is to:

- inform any government submission to the PAC review required under the DBP and RAB Acts
- inform the broader Embedding Construct NSW program of work, specifically as evidence of BRD's preparedness and readiness to embed operational practices required by the DBP and RAB Acts
- provide lessons learnt and insights for other BRD regulatory functions that may undergo similar transformations in the future.

Key evaluation questions

The evaluation answers 8 key evaluation questions across the three objectives of the evaluation (Table 2):

Table 2: Key evaluation questions

Evaluation objective	Key evaluation question	Section in the report where to find the answer
Determine whether the Construct NSW program of work is on track to be successfully transitioned to BRD	1. How well has BRD staff capacity, capability, processes, and systems successfully adapted to operationalise the DBP and RAB Acts?	Transition of the Construct NSW program of work to BRD.
	2. What were the main barriers/obstacles BRD encountered during implementation and how well has BRD managed them?	, 0
	3. What activities planned under the Construct NSW strategy are yet to commence or transition to BRD?	0
Assess the extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices	4. To what extent has the Embedding Construct NSW program supported a shift towards collaborative regulatory practice across BRD?	0
	5. What are the lessons learned from the Embedding Construct NSW greenhouse	0

Evaluation objective	Key evaluation question	Section in the report where to find the answer
	program governance and change process to inform future similar programs?	
Assess what early progress has been made under Construct NSW towards restoring confidence in the Class 2 residential construction industry	6. What is the level of awareness and capability of the residential apartment industry to meet the new requirements set out under the DBP and RAB Acts?	0
	7. How efficient are new processes brought in to operationalise the DBP and RAB Acts for the residential apartment industry and consumers?	0
	8. What early evidence is there to suggest that confidence in the Class 2 residential building sector may be improving?	0

Evaluation methods

The evaluation relied on a mix of qualitative and quantitative methods, combining reporting data, staff surveys, an industry survey and interviews with key stakeholders.

Reporting data

Most of the reporting data used by the evaluation was collated by the Planning, Reporting and Assurance team in the Business Operations Performance and Assurance (BOPA) directorate. Key data collated by the reporting team and used for the evaluation include:

- Project health data
- Website analytics
- DBP registration data
- OC audit data
- TAFE course data.

Staff surveys

Surveys of impacted staff were the main primary data collection method to inform the evaluation around the transition and transformational intent of the program. The survey was distributed to all BRD staff within impacted functional streams from the following directorates:

- Issues Resolution and Advisory Services (IRAS), **Community Engagement**

- Building, Business and Workplace Safety (BBWS), **Licensing & Funds**
- Consumer Building & Property (CBP), **Compliance and Dispute Resolution**
- Data, Intelligence & Analytics; the Disciplinary Action Unit; Investigations, Intervention and Review; Investigations and Operations from **Investigations & Enforcement**.

Survey questions were developed in collaboration with the Change team in the Regulatory Capability directorate with two objectives:

1. to support change management by providing some pulse feedback about engagement and effectiveness of change and communication activities

2. to assess effectiveness of the change and transformation process to inform the evaluation. The survey was also reviewed by key representatives of the impacted teams.

Three staff surveys were conducted over the course of the evaluation, although there was some variation in the types of questions across these surveys to measure various aspects of program delivery over time (see Appendix 1). The first survey was distributed in June, the second in August, and the final survey in November 2021. The response rates are shown in Table 3. Response rates by functional stream and directorate are available in Appendix 1.

Table 3: Staff surveys, distribution dates and response rates

	Distribution dates	Recipients	Responses	Response rate
Survey 1	June 2021	228	147	**64%**
Survey 2	August 2021	215	127	**59%**
Survey 3	November 2021	211	113	**53%**

Industry survey

An industry survey was also deployed to newly registered Design and Building practitioners. The survey was developed in collaboration between the evaluation team, the BRD customer insights team and the Building, Business and Workplace Safety (BBWS) licensing team which manages the new DBP registration process. The survey included 18 questions across 3 sections (the full survey is located at Appendix 2):

- Understanding of the DBP scheme
- Feedback on the registration scheme – covering both customer effort and customer satisfaction
- Feedback on the reforms.

The survey was sent to practitioners who had reached an assessment outcome (determination). The first batch was sent on 19 August 2021 (this included applicants who had reached an assessment outcome from late July until 19 August), then every subsequent two weeks until 18 November 2021. Final survey data extraction for use in this evaluation occurred on 30

November 2021. Overall, the response rate was 20% with a decline from August to November, probably due to the longer time between the practitioners' initial application and final determination which triggered the survey.[5] The response rates are shown in Table 4.

Table 4: Industry survey response rate, July to November 2021

Determination date	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Total
Responses (n)	1	31	214	66	39	354*
Contacts (n)	9	98	979	483	204	1773
Response rate	11%	32%	22%	14%	19%	20%

*Note: n=3 industry survey responses were missing a determination date

As of 30 November 2021, most practitioners who responded to the industry survey were design practitioners (engineers and architects) and a small handful were building practitioners. Some individuals had applied to register as both a design and building practitioner.

Interviews with internal stakeholders

Interviews were conducted with key internal stakeholders to collect feedback about how the program was delivered, in particular to capture insights into its impact on staff capability, internal collaboration and improved regulatory practice. Staff interviewed were mostly at Director and Manager level. The number of interviews with key internal stakeholders by stream is shown in Table 5. The interview guide is located at Appendix 3.

Interviews were conducted over the phone by members of the evaluation team and took around 45 minutes to an hour. Interview notes were analysed in an aggregated way to identify common themes in the feedback.

Table 5: Number of interviews with key internal stakeholders by stream, November 2021

Stream	Number of interviews
Community Engagement	7
Licensing and Funds	2
Compliance and Dispute Resolution	4
Investigations and Enforcement	2
Business Operations Performance and Assurance	2
Policy and Strategy	1

[5] DBP practitioners were initially deemed registered until the assessment module was available in the AMANDA system in August which allowed the licensing team to go back and progressively assess all deemed registrations.

Office of the Building Commissioner	1
Total	**19**

Interviews with external stakeholders

Interviews were conducted with key external stakeholders to collect feedback on the implementation of the reforms and early impact on the industry. On the advice of the OBC, the evaluation team approached the membership of the OBC's Construct NSW Steering Committee to participate in these interviews, made up of representatives from key industry associations. The number of interviews with key external stakeholders by stakeholder group is shown in Table 6.

Interviews were conducted over the phone by members of the evaluation team and took around 45 minutes. Interview notes were analysed in an aggregated way to identify common themes in the feedback.

Table 6: Number of interviews with key external stakeholders, by stakeholder group

Stakeholder group	Number of interviews
Industry associations	11
Strata manager and owner's corporation entities	2
Other government agencies/entities (outside of DCS)	2
Total	**15**

A list of organisations that participated in interviews is located at Appendix 3.

Document review

The evaluation was informed by the review of key documents, in particular the following:

- The Construct NSW business case (Internal Document)
- Industry Report on Digitalisation of Design and Construction of Class 2 Buildings in NSW.[6]
- Serious defects in recently completed strata buildings across New South Wales.[7]

[6] Perera, H. et al. (2021). *Industry Report on Digitalisation of Design and Construction of Class 2 Buildings in NSW.* Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-08/digitalisation-of-construction-industry-report.pdf
[7] OBC and SCA. (2021). Serious defects in recently completed strata buildings across New South Wales. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-10/Serious_defects_in_residential_apartments_research_report.pdf

Confidence in the findings and limitations

We were able to implement the methods largely as intended. We are confident that the data collected provides a sound basis for the evaluation to draw conclusions about the program, in particular around the first objective of the evaluation.

The main limitations are around the absence of consumer input about their experience with the reforms. A consumer survey was attempted as part of the evaluation, however system limitations meant that identifying the correct target for these surveys was not possible. As a result, the evaluation was not able to obtain robust evidence about whether the RAB Act, DBP Act and the Construct NSW strategy more broadly was improving consumer confidence in the industry. It should be noted here that the OBC has recently commissioned research that attempts to baseline consumer sentiment and confidence in the Class 2 residential apartment industry. The findings of the research are expected to be available by April 2022.

It is also worth noting that the external interview participants were members of the OBC's Construct NSW Steering Committee, which has been instrumental in the design and implementation of the Construct NSW strategy. The benefit of conducting interviews with these stakeholders was that they had detailed knowledge about the reform agenda. However, given the participants' close involvement in the reform, the design sentiment of this group may not necessarily be shared by the broader industries they represent.

Transition of the Construct NSW program of work to BRD.

This section determines whether the Embedding Construct NSW program has been successful in operationalising the DBP Act and integrating the RAB Act within BRD. It also considered the current delivery status of the Construct NSW strategy, including activities yet to be transitioned to BRD. The section answers the following evaluation questions:

- How well has BRD adapted staff capacity, capability, processes, and systems to operationalise the DBP and RAB Acts?
- What were the main barriers/obstacles BRD encountered during implementation and how well has BRD managed them?
- What are the lessons learned from the Embedding Construct NSW greenhouse program governance and change process to inform future similar programs?
- What activities planned under the Construct NSW strategy are yet to commence or transition to BRD?

BRD staff mobilised rapidly to operationalise the DBP Act and integrate the RAB Act.

The Embedding Construct NSW program included the initiation, design, delivery, implementation of key projects to ensure the smooth transition of responsibility and ongoing management of the Construct NSW Strategy from the OBC to BRD. This included, as a priority, the operationalisation of the DBP Act and integration of the RAB Act into BRD to regulate the Class 2 residential construction industry.

Delivery of the Embedding Construct NSW program of work required a fundamental shift in the way BRD approached regulation of the Class 2 residential construction industry, and was predicated on BRD functional streams having sufficient staff awareness, capacity and capability to operationalise the new requirements brought in by the DBP and RAB Acts.

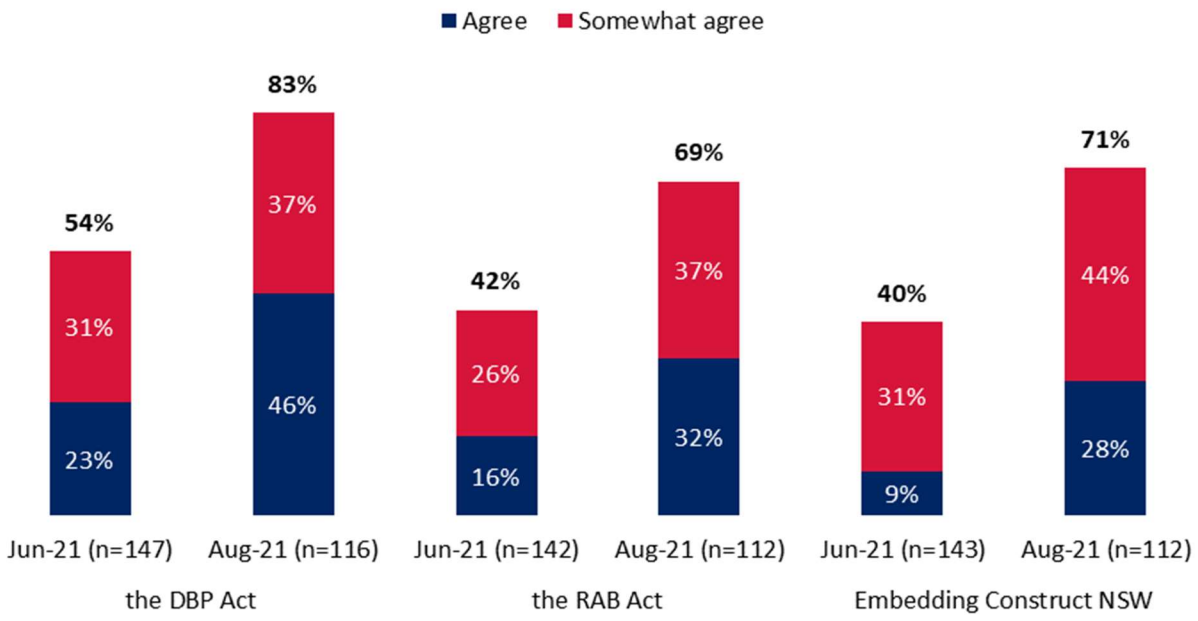
To understand more about whether this has been achieved, the evaluation considered evidence drawn from staff surveys and interviews, along with information about use and quality of various systems and processes introduced by the program.

While awareness of impacted staff about how the Embedding Construct NSW program would impact them was initially limited, it improved rapidly following internal awareness raising initiatives.

The integration of the RAB Act into BRD's regulatory approach commenced in September 2020[8]. Planning for the operationalisation of the DBP Act and Embedding Construct NSW program more broadly commenced at the executive level in December 2020, with more detailed planning and implementation activities occurring across key BRD functional streams in early 2021.

The results of the staff survey deployed as part of the evaluation found that, by June 2021, just over half (54%) of key operational staff agreed or somewhat agreed that they had received enough information about the key aspects of Embedding Construct NSW, and less than half of staff agreed or somewhat agreed that they'd received enough information about the RAB Act (42%) and Embedding Construct NSW (40%) (Figure 5).

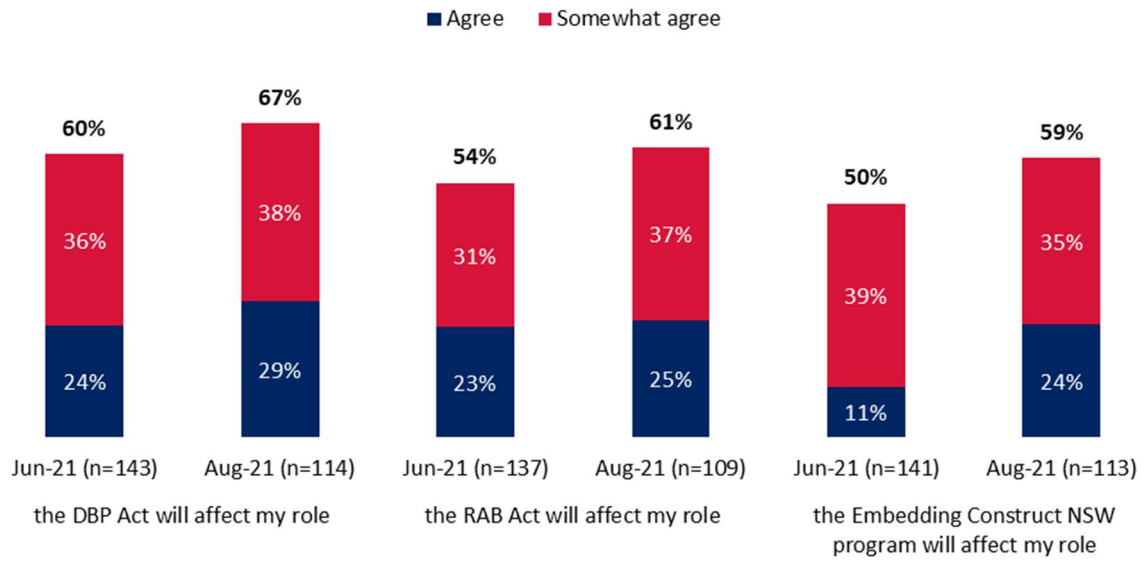
Figure 5: How much do you agree or disagree that you've received enough information about the key aspects of Embedding Construct NSW?



The June 2021 survey also revealed a little over half of operational staff either agreed or somewhat agreed that they were aware of how the DBP (60%) and RAB (54%) Acts would affect their role, and half of staff (50%) either agreed or somewhat agreed that they were aware of how the Embedding Construct NSW program would affect their role (Figure 6).

[8] The RAB Act was operationalised by the OBC along with the CDR and IRAS teams. This included the establishment of the OC Audit capability and developing BRD's ability to receive and then resolve complaints about Class 2 buildings through Fair Trading. The operationalisation of the RAB Act had limited impact on other functional streams, with most representatives reporting they had limited understanding and awareness about the RAB Act and its objects until it became a consideration as part of the Embedding Construct NSW program.

Figure 6: Staff awareness about how key aspects of Embedding Construct NSW will affect their role.



In response to the results of the June 2021 staff survey, BRD commenced a targeted information sharing effort to bring key operational staff up to speed with the impact of the Embedding Construct NSW program of works. Key awareness raising activities included Directorate town halls, Yammer posts, regular email updates and change transformation specialists attending impacted operational staff team meetings. This communication approach was successful, as staff reported an increased level of agreement that they had received enough information about key elements of the Embedding Construct NSW program by August 2021 (Figure 5).

Many BRD staff were initially unclear about new regulatory processes brought in by the DBP and RAB Acts, but this rapidly improved over a short period of time.

The Embedding Construct NSW program introduced new processes to support regulation of the Class 2 residential construction industry. This included the:

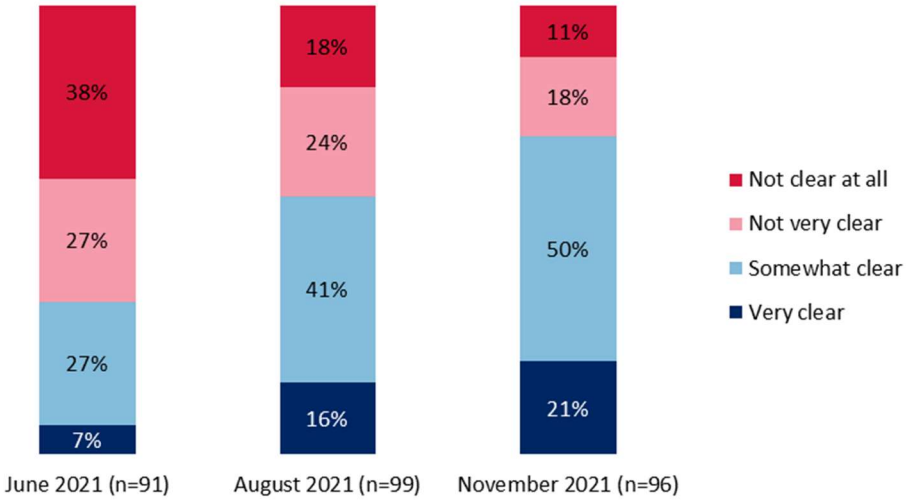
- Establishment of a new practitioner registration assessment process and procedures.
- Integration of a new NSW Fair Trading Complaints and Triage model.
- Transition and integration of the new OC Audit process from OBC to BRD.
- Development and integration of various intelligence and analytics systems and capability to support the risk assessment and regulation of the industry.

In some cases, these new processes were first established by the OBC (who had Fair Trading and SafeWork staff embedded within it), and then transitioned across to BRD for ongoing delivery – including the Complaints Triage model and OC Audit process.

According to the staff survey distributed in June 2021, only a third (34%) of respondents reported that the new processes (relevant to their function) introduced under Embedding Construct NSW were somewhat or very clear to them (Figure 7). By August 2021, overall clarity in the new processes increased considerably to 57 per cent and then to 71 per cent by

November 2021. While improving over time, only a relatively small percentage of staff reported that the new processes were very clear to them at each interval.[9]

Figure 7: How clear are the new processes introduced by the Embedding Construct NSW program for you?



All functional streams reported a capability uplift in their staff as a result of the Embedding Construct NSW Program.

Staff skills and capability were a key focus on the Embedding Construct NSW program to ensure that the new systems were used correctly and to operationalise the new regulatory framework established. This aspect was explored with key staff involved in the program's implementation, who all reported that they had observed an uplift amongst all impacted BRD teams as a result of the Embedding Construct NSW program. The most commonly reported areas of skills uplift included:

- improved technical and regulatory capability,
- increased use of systems/data to inform regulatory decisions, and
- improved collaboration across BRD teams and engagement with practitioners.

A summary of reported skills uplift specific to each impacted BRD team recorded during interviews is summarised below:

- CBP (CDR): CBP are responsible for conducting OC Audits. The team established to deliver this function were highly technical professionals with little to no prior government experience. As a result, the staff had good industry and technical knowledge, but little regulatory capability, which led to some initial challenges around knowledge of government processes, report writing skills and an understanding of regulatory practices. These aspects are reportedly improving within the team, assisted by collaboration with SafeWork inspectors who have been providing guidance and also

[9] The evaluation received some feedback to suggest that the model by which Fair Trading and SafeWork employees were embedded within the OBC helped to develop the new processes may have had a positive bearing on their suitability and pace at which they were developed. This may be the case, however, the evaluation has found no further evidence to support this.

helped to develop a training program to improve their understanding of, and ability to conduct, regulatory enforcement.

"Staff recruited initially lacked Regulatory experience and capability. Drafting orders, knowledge of how government worked, how ministerial [briefings] *work, feedback, how to collaborate with other divisions. It's getting better…"*

- **BBWS (L&F):** L&F are responsible for administering the new registration of industry practitioners and reported **adopting** a more proactive and efficient approach to assessing practitioner applications. They also reported adopting a risk-based approach in collaboration with the DI&A team which developed a risk rating tool to red-flag the most-risky applicants.

"We're getting better at identifying issues, picking up patterns/red flags in practitioner applications, or picking up ways to help customers navigate the system and get a better result. We're picking up issues before they escalate to a complaint."

- **IRAS (CE):** IRAS are responsible for managing complaints received about Class 2 buildings and reported that their staff confidence and regulatory capability is improving which is leading to improved **and** more proactive engagement with practitioners. This change has been attributed to improved collaboration with CDR and I&E to assess complaints, along with new systems such as the Single View products and Risk Rating matrix to assist complaint handlers make decisions.

"The staff now are confident to make decisions, and they weren't before. [If a] builder says they're not coming back, now they're more confident to have regulatory conversations with them to get a better outcome. It also helps being able to see how many rectifications orders have been issued to a specific builder and how many have been complied with…"

- **DI&A, I&O (I&E):** I&E are responsible for investigating non-compliance and initiating enforcement proceedings. The main capability uplift reported in this stream was with regard to the collection and use of **data**, particularly risk information, to support BRD's regulation of the industry.

"…in my own staff, a massive capability uplift. New intelligence products, new intelligence analytics, new relationships with stakeholders who provide us with data to help us understand risk. We've developed a more sophisticated approach to understanding risk in Construction, and this helps us across all other sectors we regulate. As we had to do a lot of additional work initially with no extra resources, there's been an uplift in how we prioritise our work…"

Initial implementation of Embedding Construct NSW has been successful. Developing a clear vision for what long term success of Construct NSW looks like within BRD will help guide further transition.

During interviews, participants were asked to reflect on the implementation of the Embedding Construct NSW program in terms of what worked particularly well, and areas where they

thought there were opportunities for improvement. This section summarises these insights across the following delivery components:

- Program initiation
- Governance and risk management
- Uptake of systems and tools
- Stakeholder engagement and communications.

Project initiation: Whilst rapid adaptation was achieved, BRD was initially underprepared to deliver the Embedding Construct NSW program due to insufficient time being available for forward planning and a lack of dedicated project management capability.

Given the broad scope, complexity and degree of change required within functional streams to deliver the regulatory model required under Embedding Construct NSW, most interview participants noted that they felt unprepared to take on the work required by the Embedding Construct NSW program. This situation was somewhat exacerbated by competing activities within BRD at the time, including the disruption caused by the realignment of BRD into functional streams in 2019/2020. As a result, interviewees noted that during the initial commencement of the program, implementation was disjointed across BRD functional streams. Interview participants also highlighted that dedicated project management resources were unavailable. Instead, suitably skilled representatives from the BOPA and Construction Policy teams were reassigned from other duties to plan for and manage the ongoing delivery of Embedding Construct NSW.

"From the commencement of OBC to development of Legislation – there was not any preparation for what to do. Also, no preparation for delivery. The greenhouse project wasn't included on the pipeline of affected businesses. BOPA escalated the importance of the project…and became a bit of a PMO by proxy because of the skills/capabilities of people in the team."

BRD staff participating in interviews noted that ideally the project planning phase would have commenced at least 12 months prior to when the legislation took effect. This would have enabled impacted functional streams within BRD to adequately plan for, and allocate appropriate resources to, delivery of the required program of work.

Recommendation 1: Further rollout of the Construct NSW program should be supported by a timely and robust delivery plan which is communicated to all impacted functional streams and includes dedicated project management resources.

Despite this feedback, and in line with Section 0, almost all stakeholders interviewed emphasised their teams were able to adapt quickly and over a short period of time to ensure the requirements under the legislation were met. This rapid adaptation was attributed to the establishment of strong governance to coordinate effort across BRD, improved collaboration

amongst DRB functional streams and directorates, and effective change management and staff engagement/communication.

Program governance and risk management: Program governance became stronger over time but the program still lacks sufficient strategic direction, clear objectives and accountabilities.

Almost all interviewees noted that the establishment of the Program Control Group and Construct NSW Steering Committee substantially improved the coordination and decision making required to deliver the Embedding Construct NSW program.

However, there was a view held by the majority of interviewees that the governance responsible for delivery had not managed to fully crystalise the vision, purpose and objectives of the Embedding Construct NSW program and what it was trying to achieve within BRD. Instead, interviewees believed that the program tended to focus on the immediate requirements of the DBP and RAB Acts in isolation of the broader transformative aim of the Construct NSW program of work. Further, some staff noted that there was a hesitancy amongst BRD executives to take on a degree of risk and accountability for the overall success of the program.

". Business Units are hesitant to put down clear targets and accountabilities in case they are missed. This is resulting in uncertainty about what success looks like. We should have absolute clarity on what success looks like and not be afraid to fail..."

To address this, it was generally felt better communication was needed from the OBC to clarify what success of the Construct NSW program looked like to assist BRD set and achieve these objectives internally. Particularly for those functional streams within BRD that were engaged to operationalise the DBP Act, it was felt that there was a disconnect between the program of work put into place by the OBC and how their stream was involved:

"There seemed to be quite a bit of forward planning work, strategic planning work done within the OBC that didn't really capture what was required from broader parts of the business."

Interestingly, there appeared to be different views on this point between impacted functional streams and business units (CDR, IRAS, Digital and Program Delivery) that were engaged to operationalise the RAB Act and those that were just involved in the DBP Act. The difference here was that teams delivering on the RAB Act worked more closely with the OBC and thus more clearly understood the vision and objectives of the Construct NSW strategy.

Further, stakeholders felt the long term vision should be accompanied by clear, relevant and specific targets assigned to each functional stream to guide delivery and monitor transformation. It is understood this work has commenced between the OBC and BRD in planning for the next stages of delivering Construct NSW.

Recommendation 2: The OBC and BRD functional streams should have clear and defined roles to deliver Construct NSW. This includes clarifying the long term vision and objectives for Construct NSW in BRD, supported by clear and measurable targets.

Uptake of systems and tools: New systems and tools provide substantial opportunities for more proactive regulation but some are not yet fit for purpose, or are not yet being fully leveraged by BRD.

As part of the Embedding Construct NSW program, purpose-built systems were established and other existing systems optimised and leveraged to operationalise the DBP Act, as well as integrate the RAB Act into BRD regulatory practice (see Table 7**Error! Reference source not found.**).

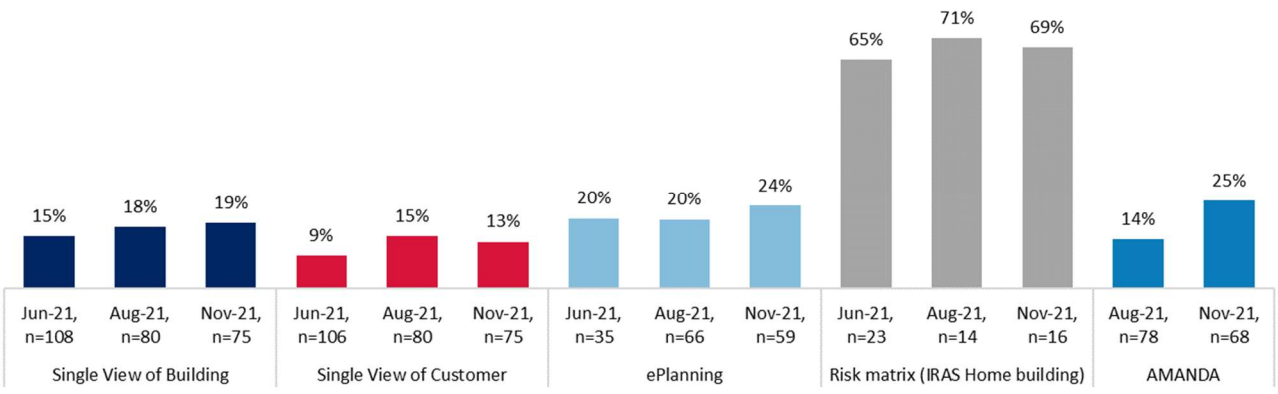
Table 7: Key systems and tools for Embedding Construct NSW

System/ tool	Type	Intended users	Purpose
Single View of Building	An application suite of products including: the collation of legacy BRD data sources providing an overview of BRD interactions on a Class 2 building site/ address; a predictive risk-rating tool that prioritises the highest risk buildings; dashboards; and a reporting application for executives.	Building inspectors (I&E), CDR, IRAS, executives.	To provide a single interface to view regulatory interactions, compliance outcomes, OC audits and risk ratings associated with each Class 2 building in NSW; and to support data-driven site selection.
Single View of Customer	Collation of data sources from Fair Trading, ABR and ASIC to provide a single view of an individual or entity Fair Trading regulates.	IRAS, I&E (FT inspectors), CDR	To provide a single access point to data that exists across multiple BRD systems on traders/ entities in NSW
ePlanning Portal	Software system upgrade and improved access	CDR	To access data on development plans for Class 2 buildings
Risk Rating Matrix	Capacity-building resource	IRAS	To help prioritise the resolution of higher-risk complaints – taking into account cumulative risk or

System/ tool	Type	Intended users	Purpose
			severity of various harms, vulnerabilities, trader history, consumer & community detriment
OC Audit Site Selection tool	A multi-party risk rating tool which draws data from multiple sources to identify buildings likely to contain defects	CDR	To assist OC Auditors identify, select and prioritise buildings to conduct an Audit/Inspection under the RAB Act
AMANDA	Software system development	Licensing (BBWS), Investigations & Enforcement and IRAS	To support the assessment of DBP registration applications

Between June 2021 and November 2021, the proportion of (intended) staff using each of the new tools developed to support delivery of the Embedding Construct NSW program gradually increased (Figure 8**Error! Reference source not found.**), with the exception of the risk matrix. The risk matrix was developed exclusively for the IRAS team to assess and triage complaints about Class 2 buildings, and comparatively high levels of use were observed over time.

Figure 8: Use of systems and tools developed to support delivery of the Embedding Construct NSW program (Sometimes, Often or Almost Always)



Survey respondents were also asked to rate the usefulness of those systems they had used (Figure 9**Error! Reference source not found.**).

Figure 9: Usefulness of the systems and tools developed to support delivery of the Embedding Construct NSW program.

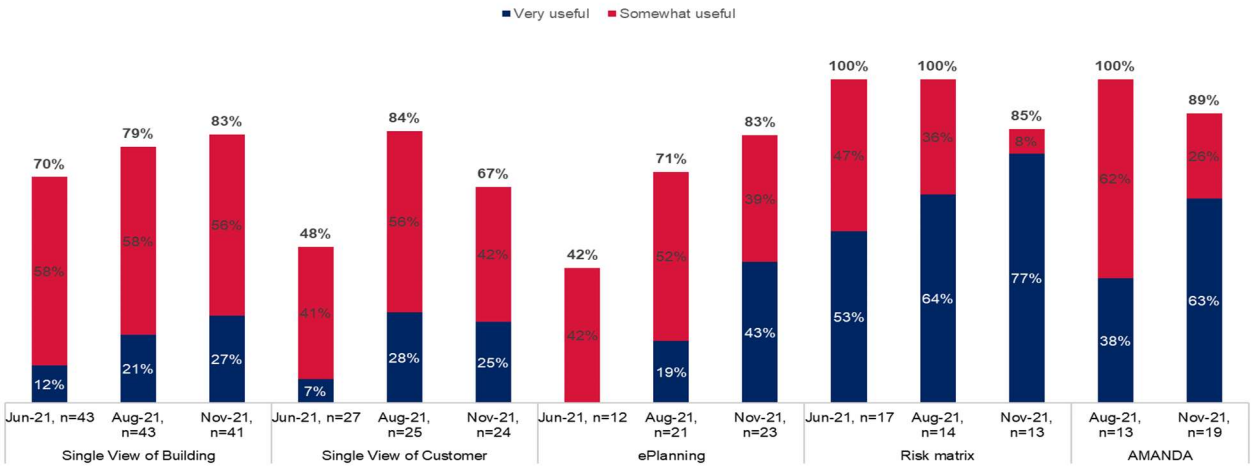


Figure 9 shows that both Single View products and the ePlanning portal were considered to be least useful, whilst the Risk Rating matrix and the AMANDA system were considered to be most useful.

The use and usefulness of these systems was also discussed during interviews with key staff. Interviewees highlighted that the acceptance and use of systems and tools appeared to be linked to whether they were involved in their development. For example, it was noted that the IRAS team had a high level of involvement and collaboration in the development of the risk rating tool which led to immediate and substantial uptake.

Other tools, such as the Single View products, were developed with a greater degree of separation between the intended users and the development team which ultimately resulted in these tools not being fit for purpose for many intended users. During consultation, it was emphasised that intended users needed be involved in, and accountable for, approval of new systems developed to support their regulatory activities to ensure they are fit for purpose.

"A big lesson for us in terms of introducing digital tools within BRD is working really hard to bring along your users and the teams that need to work with you. There is a huge change piece required. It wasn't about doing things different with the same tools; it's about using different tools. We've had some early adopters and strong support, but also had some pockets of resistance."

Recommendation 3: BRD should ensure that intended users of new systems developed to support regulatory activities are accountable for approving their design to ensure they are fit for purpose; and, ensure existing systems intended to support further delivery of the Construct NSW regulatory model (such as AMANDA) are functional for both the customer and regulator.

Whilst better engagement with intended users during the development of new systems may have resulted in increased usage, the evaluation also notes that implementation barriers

(particularly the tight timeline, discussed in Section 0) for Embedding Construct NSW may have led to delayed and/or rushed development of new systems and tools. Interviewees shared one example where a BRD team was overlooked for consultation on the development of a new tool/system, despite having relevant technical expertise and regulatory experience which may have improved the tool/system's design and potentially increase its uptake. In another example, the development of AMANDA was delayed to the extent that only the customer facing interface of the system was complete by 1 July 2021 when the DBP Act came into effect. "Back-end" functionality of the system was developed in the months following which impacted its overall use amongst staff members, where most BRD staff who weren't using AMANDA said that they didn't have access to it yet.

There are also externalities that may have impacted on the overall use and usefulness of the tools. The clearest example is that the low level of use of the ePlanning Portal – many BRD staff didn't have the level of authorisation required to access information captured in the Portal (e.g. some data fields remained hidden), so they continued to use legacy BRD systems instead. Further access to ePlanning for BRD staff is an ongoing inter-departmental matter with the Department of Planning and Environment which houses the custodians of this system.

It is also worth noting here that some participants feedback suggested another driver for the underutilisation of systems may be related to the existing digital capability of staff in some areas. These comments mainly related to areas responsible for undertaking regulatory activities, where systems and associated data were suggested to be primarily used for reporting purposes rather than for regulatory decision making:

"There is a lot of opportunity but not being used appropriately yet… [the systems] *consolidate all this information but it's not being used to drive better decision making."*

Whilst not discounting the need for intended users to be responsible for the design and ultimate acceptance of new systems, the evaluation suggests that exploring the current level of digital capability across BRD would be useful to ensure these systems are fully leveraged for regulatory decision making. As the evaluation has found this feedback was not uniform across all interviewees, it is suggested further exploration across functional streams with regard to their ability and primary use of these systems may be warranted.

Recommendation 4: BRD should explore whether existing digital capability amongst BRD executives and staff is at an appropriate level to ensure that systems built to support the Construct NSW program are fully leveraged and deliver targeted interventions to uplift these skills where it is necessary.

Despite these findings, almost all interviewees acknowledged the immediate and future potential benefits provided by the systems built and leveraged to support delivery of the Embedding Construct NSW program. The main benefit in this regard was improved access to data and information about the industry:

"…data on the construction space is much more readily available. It's able to be provided much more quickly and intuitively so people have more answers…."

Stakeholder engagement: Internal communications and engagement have been effective, but engagement with industry is still being led predominately by the OBC and BRD Building & Construction Policy.

On stakeholder engagement, interviewees acknowledged that the internal stakeholder engagement and communications effort undertaken to inform impacted staff about the changes introduced by the Embedding Construct NSW program had been profound and broadly effective. Evidence of this is outlined in Section [illegible].

However, stakeholders acknowledge that currently the bulk of industry engagement is being led by the OBC through the externally focussed Construct NSW Steering Committee and Pillar working groups (on which BRD is represented) and also BRD Building & Construction Policy as a result of consultations on further legislative reform in the industry. To ensure the initial momentum of the reform agenda is maintained over the long term, it was felt that a continued level of engagement with industry was necessary to maintain buy in and acceptance of the new regulatory framework. This view was echoed by industry stakeholders interviewed (see Section 0).

"I still think the OBC is driving stakeholder comms and management – I don't think BRD has fully stepped into that space yet, we're not engaging with our stakeholders the way we normally would because the OBC still has carriage of this."

To assist in the transition of broader elements of the Construct NSW strategy to BRD and to ensure the initial momentum of the reform agenda is maintained over the long term, regular and transparent industry engagement that focusses on a transition from the OBC led approach to one led by BRD, should be prioritised to ensure industry buy in and acceptance of the new regulatory framework. This will require enhanced communication and collaboration between relevant OBC and BRD representatives.

Recommendation 5: As part of transitioning responsibility for delivery of the Construct NSW program of work, the OBC and BRD should collaborate to develop a clear plan to hand over responsibility for external stakeholder engagement to ensure that direct and regular industry engagement is maintained.

Encouraging the entry of Decennial Liability Insurance is a priority initiative under the Construct NSW program. Beyond this, further internal work is needed to plan for and sequence the remaining elements of Construct NSW.

The Construct NSW strategy commenced in 2019 and is centred around six pillars of reform (Table 8):

Table 8: Summary of the Construct NSW strategy's 6 pillars

Pillar	Purpose

Pillar 1: customer-focused regulatory framework	Better protect buyers and residents from poorly constructed apartment buildings.
Pillar 2: ratings systems to provide greater information transparency	Establish a risk-based regulatory approach that focuses on the riskiest industry players.
Pillar 3: lifting skills and capabilities	Work with educators and building professionals to identify learning gaps and skills and support a modern and innovative construction workforce.
Pillar 4: strengthening contracts and standards	Deliver better procurement methods for clear and consistent standards across residential building construction.
Pillar 5: using digital platforms to drive enhanced accountability	Drive the building sector from paper-based recordkeeping into a streamlined digital environment that improves transparency, accountability and the quality of work within the sector.
Pillar 6: using data and research to deliver continual improvement	Gather information about the state of the industry, its capabilities and areas for change.

By November 2021, most pillars had commenced and were at various levels of progress.

The primary focus of the Embedding Construct NSW program has been on operationalising the DBP Act and integrating the RAB Act into regulatory practice for the Class 2 residential industry. The remaining pillars of the Construct NSW program continue to be delivered by the OBC. To assist with planning for the next phases of Embedding Construct NSW, the evaluation explored what internal and external stakeholders considered to be key pillars and initiatives yet to be transition to BRD that should be prioritised.

BRD staff had limited knowledge of the broader Construct NSW program and were mainly concerned with ensuring the DBP and RAB Acts were implemented correctly.

When asked what Construct NSW activities that had not yet been successfully embedded into BRD should be prioritised, most internal staff noted they had limited awareness about the broader strategy and that their focus was on ensuring the DBP Act and RAB Act were operationalised correctly:

> *"I find there is a lack of awareness about what is in the pillars. We are focussed on delivering the DBP and RAB Acts – no one knows what the pillars are, it depends on who you ask."*

It was noted by these participants that further planning and coordination was needed between the OBC and BRD functional streams to identify priority initiatives to transition, along with a clear pathway for how these initiatives would be practically implemented and what BRD streams would be responsible for their delivery.

Recommendation 6: The OBC and BRD should work to identify and prioritise Construct NSW pillars not yet transitioned, including a clear pathway for how these initiatives would be

practically implemented and what BRD streams would be responsible for their delivery. This plan should then be communicated to staff from impacted functional streams to improve awareness and ensure activities are adequately planned for and resourced.

Industry representatives considered the Construct NSW program to be a holistic reform agenda, emphasising the need for continued momentum and engagement with them as part of its delivery.

Given that industry representatives who participated in interviews were part of the OBC Construct NSW steering committee, they generally had more awareness about the nature of the strategy and the intent of each pillar supporting it than BRD staff. They emphasised that the Construct NSW strategy was holistic in its approach to transforming the regulation and operation of the industry, and all pillars were important for continued delivery.

Industry representatives expressing these views most commonly noted that the success of the Construct NSW strategy to date had been due to the high level of engagement with industry, the pace at which reforms have occurred, and the strong personality of the NSW Building Commissioner to drive progress, including his ability to have *'difficult conversations'* when need be.

To this end, there was concern shared amongst some interviewees about the sustainability of the reform agenda, particularly following the planned decommissioning of the OBC in September 2022:

> *"Biggest concern is all of this is that we lose momentum once OBC reduce its presence. It's been proven that industry isn't great a self-regulation. Government has a big role to play in the short term. Government needs a tight rein until industry gets back on its feet."* – Consumer association

BRD has recently been approved to expand its operational capacity to deliver the Construct NSW strategy which is understood to be sufficient to deliver the strategy moving forward.

Both internal and external stakeholders pointed to the need for market intervention to support the regulatory model.

Finally, it should be noted that both internal and external stakeholders identified the establishment of Decennial Liability Insurance (DLI) and the Independent Construction Industry Rating Tool (ICIRT) ratings system as a key component to ensuring appropriate consumer protections to improve confidence in the industry.

External stakeholders felt that felt the establishment of the ICIRT rating system, and eventual introduction of the DLI, was key to affording consumers appropriate protections to re-enter the Class 2 residential market:

"ICIRT will be a mandatory requirement for a practitioner to obtain DLI. ICIRT is not just a financial rating tool but a risk rating tool for building quality and trustworthiness. It assesses whether a

practitioner is capable of delivering what their promising….it [DLI] *has the ability to be the most significant change in consumer protection and quality."* – Consumer association

Internal staff saw DLI as a means of easing the regulatory burden on BRD and making the regulatory model more sustainable.

"At the moment we're ramping up for further regulatory effort, but when and how to do we allow the market to do the regulation to ease the burden…Because it's just not sustainable to have this quantum of government oversight and funding for the foreseeable future, because it compromises our ability to regulate other spaces because it all comes from one funding source."

At the time of writing, work was already underway to develop and introduce DLI through the Ministerial Advisory Panel on decennial liability insurance which has been tasked with providing advice to the Government on the viability of a decennial liability insurance product in NSW, including the possible design that would provide a long-term protection for residential apartment buildings.

It is important to note here that some external stakeholders, particularly those representing building and developer practitioners, had some concerns about ICIRT and DLI. These concerns primarily related to the risk that ICIRT and DLI would constrain medium and small organisations from remaining or entering into the market due to the prohibitive costs of attaining an ICIRT rating and subsequent DLI product.

Recommendation 7: As part of the introduction of ICIRT and DLI, BRD should work with industry to ensure this form of market regulation does not disproportionately impact the industry, and consider the potential need for exclusion of small and medium sized businesses operating in the sector.

Extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices.

This chapter examines the contribution of the Embedding Construct NSW program to improving BRD regulatory practices. It answers the following evaluation question:

- To what extent has the Embedding Construct NSW program supported a shift towards collaborative regulatory practice across BRD?

Proactive regulation is occurring within BRD, led by improved collaboration and data-driven decision making.

A key objective for the Embedding Construct NSW program and Construct NSW strategy more broadly is to improve collaboration amongst BRD functional streams and between individual regulatory agencies with a view to transforming BRD's operating model and regulatory approach to be more proactive. Critical to the success of this transformation is strong, consistent, and united strategic and executive leadership, and creating an internal cultural shift from siloed regulators to operating as 'one BRD' with the customer at the centre.

When asked about what early indicators might demonstrate whether a shift toward being a proactive regulator was occurring, stakeholders suggested:

- improved access to and use of data to proactively target and inspect high risk entities
- improved collaboration amongst BRD functional streams, directorates, and agencies to regulate the Class 2 residential building industry
- improved access to technical expertise to inform regulatory decisions

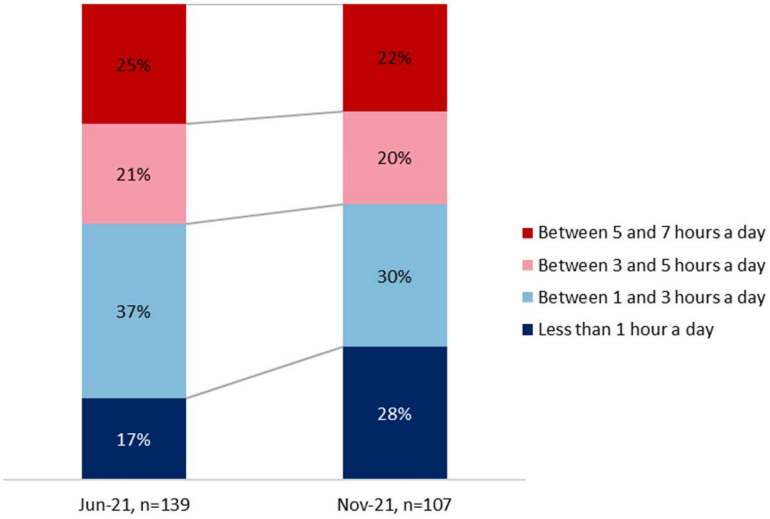
These indicators were explored through internal staff surveys and interviews with key stakeholders delivering the Embedding Construct NSW program.

There has been improved access to and use of data to inform regulatory decisions, particularly with regard to the use of risk information.

As part of the Embedding Construct NSW program, purpose built systems were established and existing systems optimised and leveraged to assist staff to collect and use data to inform regulatory decisions. An online survey was deployed to staff using these systems in July and November 2021 to understand whether access to data to inform regulatory decisions had improved over time as a result of the program. Overall, the survey results show mixed views about whether this is occurring.

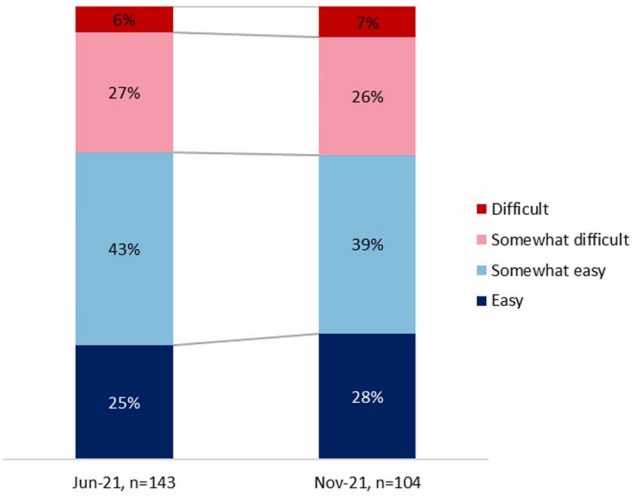
Figure 10 shows that there has been a small decrease in the reported time that staff spent on accessing data. The percentage of staff who reported spending less than one hour a day accessing data to do their work increased from 17 per cent in June 2021 to 28 percent in November 2021. However, the proportion of staff spending more than 3 hours only marginally decreased.

Figure 10: How many hours are you currently spending in a typical day to access data to inform your work across systems that you use?



Further, there appears to have been very little change from June to November 2021 in how easy staff felt it was to access the data they needed to do their work (Figure 11).

Figure 11: How easy would you say it is to access the data you need to do your work?



Of staff who provided commentary on data accessibility (n=31), just under half (45 percent) said that consolidating existing data systems into one (or simply less systems) would make it easier for them to access data. Given that the systems established to support delivery of the regulatory framework established by Embedding Construct NSW were designed to consolidate existing data systems, the above stakeholder feedback suggests that further consolidation may be required. This includes integrating systems used by SafeWork and Fair

Trading inspectors to make referrals and information sharing more efficient (see Section 0). A further 16 percent of these staff said that improving accessibility to particular systems (such as ePlanning) would make it easier for them to access data. Other issues that were mentioned included the need to improving search functionality (10 percent) and developing more / improving existing guidance materials for the systems available to them (10 percent). This feedback should be considered by BRD in addressing Recommendations 2 and 3 of this report.

Whilst these results suggest there is opportunity for improvement, the evaluation found the use of data to direct regulatory effort is occurring - particularly with regard to the use and application of risk information. For example, interviewees representing all impacted functional streams reported that data and systems available to BRD as a result of the Embedding Construct NSW program were changing BRD's understanding of risks and how to take a risk-based approach to regulation.

"The biggest benefit and transformation is the change in our understanding of risk and seeing it as important, and our ability to focus on it."

This view was supported by representatives across multiple functional streams, who offered examples of how they have changed their work practices based on access to risk information and conducting targeted risk assessment as part of their regulatory activities, including:

- BBWS (L&F): Who reported an increasing utilisation of data sources from DI&A to assist them in risk rating licence applications.
- IRAS (CE): Who reported utilising the risk rating matrix as a triage tool to inform their triage of complaints related to Class 2 buildings.
- CBP (CDR): Who reported using risk rating information to inform their site selection for OC Audits.
- DI&A (I&E): In particular, the DI&A directorate who are responsible for collating, analysing and reporting risk intelligence to other functional streams responsible for delivering Construct NSW.

"Our data analytics have risk rated over 2 million people and over 200,000 organisations. This gives us a really sophisticated understanding of risk and enhances our ability to identify risky entities..."

Collaboration between BRD functional streams is occurring. Having a clearer understanding about the role of BRD functional streams in regulation of the industry will improve this.

The regulatory model introduced by the Embedding Construct NSW program requires BRD streams to coordinate and collaborate with each other to ensure regulatory outcomes are achieved. Internal interviewees noted that collaboration amongst BRD streams has already improved as a result of the program:

"I think we've done really well in this area [collaboration] *... it's dawned on people more, the benefits of the collaboration, particularly in the last 3-6 months..."*

"Other things that went well were the cross-division collaboration, business streams are getting together on a regular basis which has been really good to keep us accountable and aware of what was happening in other areas."

"...collaboration has been good...individual teams are working together behind the scenes to work out how we managing these new requirements..."

However, it was also noted there is further work to be done:

"There was some initial hesitancy, particularly in Fair Trading, and some barriers we still need to overcome... we continue to have some challenges in talking to some areas of BRD, still some who are quite protective of their patch."

It was highlighted that having a better understanding of what different organisations do and how they can contribute to regulating will improve overall delivery of the regulatory model. Importantly, stakeholders noted that this did not only pertain to operational staff, but also to BRD executives across different streams – who are responsible for "*...sense making and sense giving...*" to rationalise and communicate to their staff new ways of working and opportunities for collaboration. Stakeholders similarly called for greater collaboration from the OBC, discussed in Section 0.

To understand more about the level of cooperation and collaboration within BRD, in the final iteration of the staff survey in November 2021, staff were asked to rate their team's current level of cooperation with other BRD streams responsible for delivery of the Embedding Construct NSW program. As shown in Table 9, staff were asked to numerically rate levels of cooperation **between 0 and 4**, where 0 indicated no awareness of what another stream was doing and 4 indicated collaboration. Each higher level of cooperation included the features of the prior ones (apart from '0. No awareness').

Table 9: Cooperation scale used to rate collaboration amongst BRD functional streams, November 2021[10]

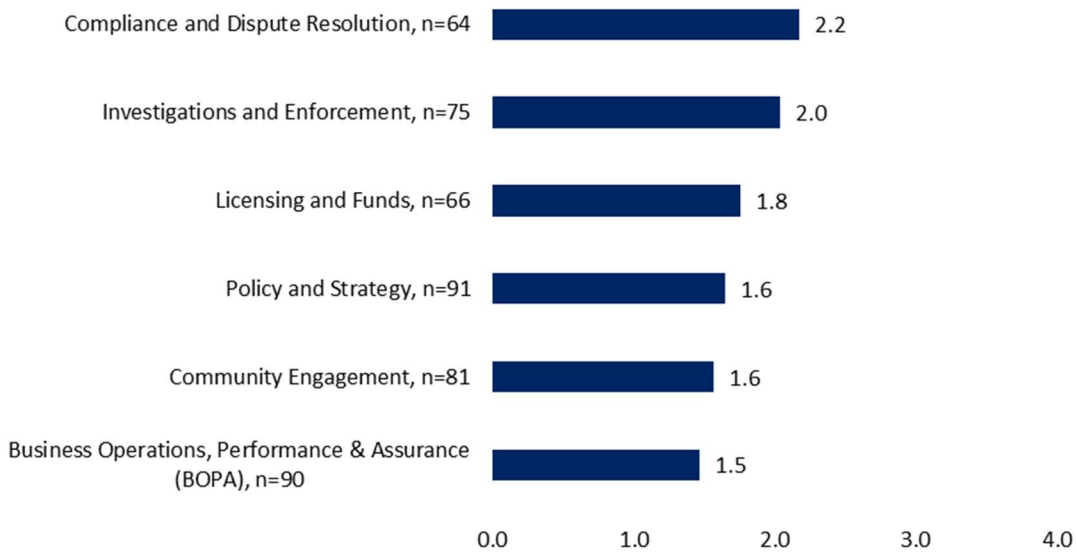
Level of cooperation	Definition
0. No awareness	We are not aware of what teams in this stream are doing.
1. Awareness	We are **aware of** what this other stream does, but organise our activities solely on the basis of our own processes
2. Communication	We are aware of what this other stream does and actively **share information** (formally or informally) with the other stream
3. Coordination	In addition to level 2, we **work together** by adapting our processes to take into account processes in the other stream

[10] Cooperation scale adapted from Browne, G. et al. (2004). Conceptualizing and validating the human services integration measure. International journal of integrated care, 4, e03.

4. Collaboration	In addition to level 3, we **jointly** plan and deliver key aspects of our work with the other stream with the aim of an integrated approach

Averaged across staff from each team, CDR received the highest average cooperation score (2.2), ranking just above 'communication', indicating that survey respondents were broadly aware of what CDR did and actively shared information with them. The next highest scorers were Investigations and Enforcement (2.0) and Licensing and Funds (1.8). Policy and Strategy and Community Engagement both had an average of 1.6, closely followed by BOPA with an average of 1.5 (Figure 12).

Figure 12: How would you rate your team's current level of cooperation with each BRD stream? (November 2021)



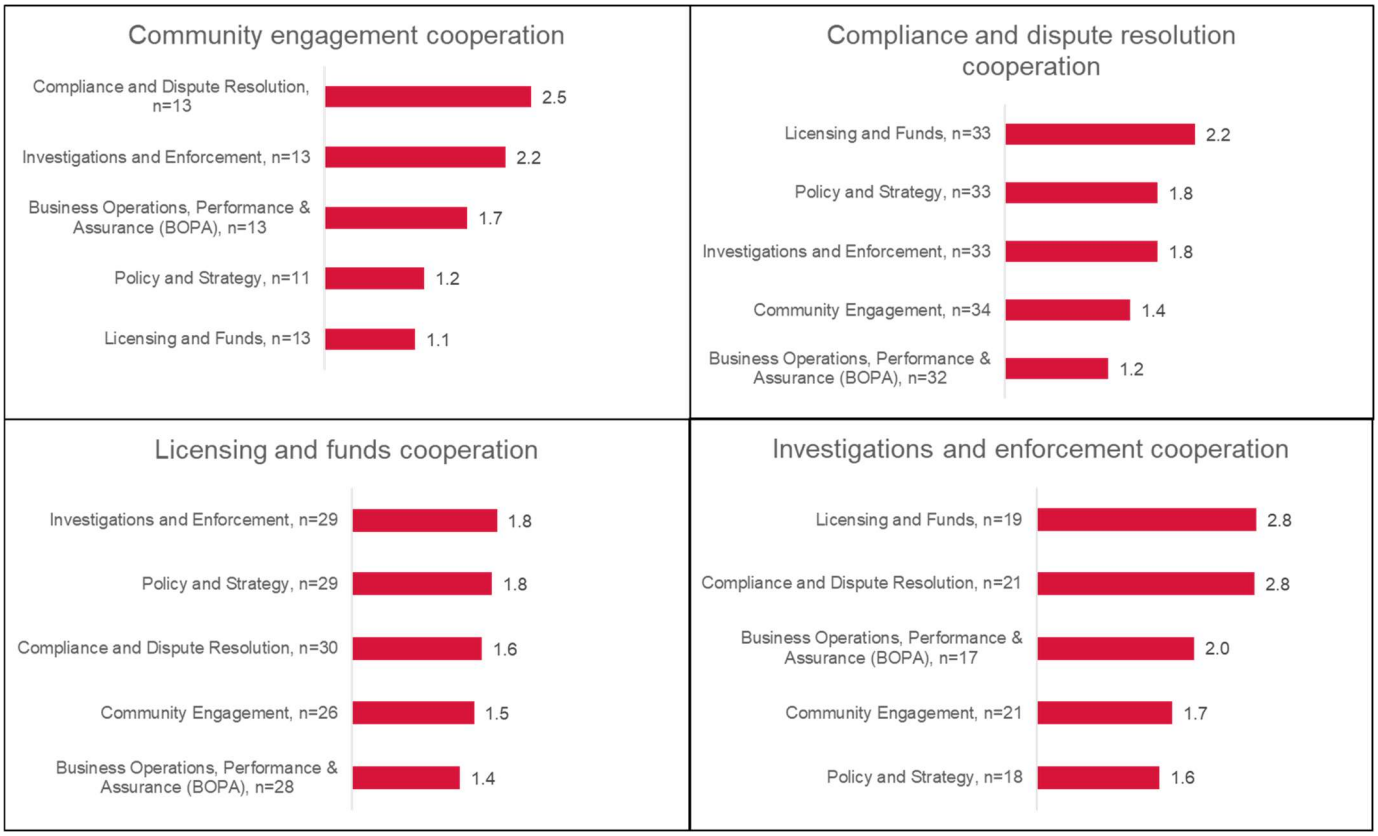
*0 = 'No awareness', 1 = 'Awareness', 2 = 'Communication', 3 = 'Coordination', 4 = 'Collaboration'

The survey results were also analysed to understand more about specific relationships between key operational areas responsible for delivering the Embedding Construct NSW program with BRD streams (Figure 13**Error! Reference source not found.**).

Figure 13**Error! Reference source not found.** shows:

- **Community Engagement** was reported to be cooperating mostly with Compliance and Dispute Resolution (2.5) and Investigations & Enforcement (2.2).
- **Compliance and Dispute Resolution** was reported to be cooperating mostly with Licensing & Funds (2.2).
- **Licensing & Funds** was reported to have comparatively lower cooperation levels across functional streams, the highest being Investigations & Enforcement (1.8) and Policy and Strategy (1.8).
- **Investigations & Enforcement** was reported to have high cooperation with Licensing & Funds (2.8) and Compliance and Dispute Resolution (2.8).

Figure 13: Internal cooperation scores for key functional areas delivering the Embedding Construct NSW program of work.



Whilst this information provides an insightful baseline about the level of coordination amongst BRD functional streams, from an evaluation perspective, it is difficult to draw conclusions about whether this baseline is sufficient by itself. Further, the evaluation acknowledges that it does to capture the collaborative relationships developed between directorates within functional streams that may be supporting program delivery. An example of this is between BRD inspectors (SafeWork/Fair Trading), who are working together to identify and refer issues observed on site to deliver the regulatory model (see Section 0):

> *"... the Acts have helped encourage collaboration. It makes it easier for us to regulate, if a SafeWork inspector sees a messy worksite, there's usually a direct correlation with the building quality. It's more likely that the cross-communication of these observations will happen now."*

Instead, BRD functional streams should review these results to determine whether the level of collaboration they have with other teams is at an appropriate level.

Recommendation 8: BRD functional streams should review the results of the baseline collaboration recorded by the November 2021 staff survey and collectively agree on whether the level of collaboration they have with other teams is at an appropriate level.

Collaboration is also occurring between individual agencies responsible for regulating the construction industry.

Beyond collaboration between BRD's functional streams and directorates, consultation with internal stakeholders also highlighted that there has been considerable collaboration between individual agencies responsible for regulating the construction industry.

The State Insurance Regulatory Authority (SIRA), OBC, Fair Trading and SafeWork have specific and legislated roles in regulating the construction industry. Each of these agencies are guided by their own strategic programs of work. For example, whilst Construct NSW is primarily concerned with establishing a regulatory model for the OBC and Fair Trading to ensure building and practitioner quality, SafeWork's regulation of the industry is guided by the Building and Construction Work Health and Safety Sector Plan to 2022[11]. Similarly, SIRA is involved through its role in regulating workers compensation and other relevant insurance schemes.

Whilst regulating different components of the construction industry, internal stakeholders highlighted their efforts to establish and operate under a joint regulatory approach. This is resulting in more coordinated and collaborative practices. Some examples of joint initiatives in regulating the construction industry between these agencies are summarised in Table 10:

Table 10: Examples of inter-agency collaboration in the NSW construction sector

Initiative	Description
Joint internal training	Joint internal training has occurred between these agencies to share specialised knowledge and develop capacity on various regulatory aspects affecting the construction industry, including: • The OBC delivering training to SafeWork and Fair Trading on quality aspects of Class 2 construction. • SIRA delivering training about insurance requirements to SafeWork staff. • Fair Trading delivering training to SafeWork on electrical supervision licence requirements.
Cross regulatory authorisations	Cross regulatory authorisations provide inspectors with the ability to take regulatory action across different legislation, streamlining regulatory processes. For example:

[11] SafeWork NSW. (2018). Building and Construction Work Health and Safety Sector Plan to 2022. Retrieved from: https://www.safework.nsw.gov.au/resource-library/whs-roadmap-documents/building-and-construction-sector-plan

	• SafeWork inspectors are authorised officers under SIRA legislation and investigators under Fair Trading legislation. • Fair Trading inspectors are authorised officers under the OBC's RAB Act.
Joint inspection programs	Similarly, joint inspection programs provide targeted and holistic regulation of sites utilising powers from multiple legislation. Examples of this include: • the OBC, Fair Trading and SafeWork delivering Class 2 construction site audits. • High visibility blitz campaigns between agencies focussing on specific geographic areas.
Improved detection and referral processes between agencies	Referrals are a means of communicating compliance issues between agencies. For example, a SafeWork inspector may observe building or practitioner quality issues during a work health and safety inspection and communicate back to Fair Trading inspectors for follow up. Stakeholders report improving referrals between agencies, including: • between SafeWork and SIRA for potential non and under insurance, • between SafeWork and Fair Training for potential high harm defect observations. • between Fair Trading and SafeWork on safety issues observed during OC Audits.

Internal stakeholders reported that this collaboration has resulted in improved regulatory outcomes, illustrated by the case studies outlined in Table 11:

Table 11: Examples of regulatory outcomes achieved through inter-agency collaboration

Case Study 1:
In August 2020, SafeWork attended a site in Strathfield where substantial compliance action was required to be undertaken due to a number of safety and quality issues. It was noted that designs and plans were being altered "on the fly" and photos of significant defects were taken (including exposed reinforcing bars in structural walls, slab cracking and non-core filled blockwork). As a result, referrals were made to the OBC (quality) and Fair Trading (licence review). OC Auditors confirmed that structural pillars located on the plans were missing and Stop Work and Rectification Orders were issued. SIRA is following up

potentially significant under-insurance based on site observations. These works restore site compliance, and have received wide media coverage to promote industry compliance.

Case Study 2:

In March 2021, SafeWork NSW construction regional inspectors removed workers from harm just hours before a structural collapse into the works area. A major cavity had developed in an 8m excavation face at a Class 2 building site in Kiama. Approximately 5 hours after workers were removed, around 30 tonnes of concrete, steel and earth collapsed from above the cavity into the works area. Failure to follow soil anchor design contributed to the collapse. Design issues (end product) were followed up by the OBC and Fair Trading with inspections and orders. SIRA reviewed under-insurance and required the builder to significantly increase their premium payment.

The joined up approach between agencies involved in regulating the construction industry outlined in this section further demonstrates good progress has been made between individual agencies toward improving collaboration and achieving the regulatory outcomes desired by the Embedding Construct NSW program. Stakeholders also anticipated that the transition of further regulatory powers from the OBC to BRD as a result of Embedding Construct NSW will result in further gains in this area.

However, it should be noted that one stakeholder pointed to further opportunities to enhance the joined up approach, particularly between Fair Trading and SafeWork, including alignment of triage models and compliance approaches between the two agencies. Whilst not in scope for this evaluation, BRD may wish to explore this area further as part of the next stages of program delivery.

Proactive regulation of the class 2 residential construction industry is occurring within BRD.

A focus of the Embedding Construct NSW program is to transform BRD toward being a more proactive regulator of the Class 2 residential construction industry. This is a move away from reactive regulation practices and moves BRD 'toward the front of the bus' in terms of industry regulation to minimise and address regulatory issues during the design and construction phases to improve the quality of apartments and consumer confidence in them.

When BRD functional streams were asked whether the Embedding Construct NSW program has changed regulatory practice, most agreed that whilst it is still early in terms of its implementation, change was emerging. For example, Licensing & Funds highlighted their use of intelligence to improve the efficiency at which they assessed practitioner licences by identifying those of the highest risk:

> *"rather than dealing with every single licensee the same, we identify the types of licensees that are more risky than others."*

Similarly, IRAS highlighted that the Embedding Construct NSW program had given their complaint handling staff the mandate to actively resolve the complaints they receive about Class 2 buildings:

> *"Previously when someone would lodge a building complaint, if someone didn't want to participate we would just refer to the tribunal (NCAT), it's different now, complaint handlers feel a responsibility to resolve complaints..."*

CDR also report a similar experience, particularly in collaborating with other regulators in the industry to highlight issues on site:

> *"Previously 90-95% of our work was all reactive. So by the time the issue gets to us it would have already gone wrong for the consumer. The failure had occurred prior to us getting involved and now we're trying to fix it...We're now starting to see some genuine collaboration across agencies and we're using staff skills in ways that are broader than their strict regulatory regime stipulates. SafeWork inspectors look at quality issues in addition to safety issues and refer back to Fair Trading. Good healthy referrals across the business and led to identification of pretty significant issues."*

During interviews, key staff were also asked what opportunities and barriers existed for BRD to become a more proactive and modern regulator. Many interviewees noted that BRD transformation to being more proactive required a further cultural and operational shift away from an *"...immediate reaction to ask for more resources..."* and toward a culture of *"...doing more with less and looking at ways to use resources better".*

> *"Cultural shift is needed. Culture of saying regulation is doing many things at once. It's not just compliance, it's also education, engagement with the market and industry. That's a real mindset change for BRD who think that the real workhorse in regulation is compliance. But that's just one part of regulation."*

Consistent with the findings outlined in Sections 0 - 0, respondents agreed that there is evidence to confirm that this shift was occurring. However, most noted the transformation was not yet complete and there was still a need for improvement.

> *"There has been a shift toward understanding to adopt that data driven model of identifying risk and harm and allocating resources in accordance with that process. There is still a way to go in educating certain parts of the business that this is a way of working and not a one off project."*

It is important to note here that the degree of change in work practices achieve by BRD functional streams since the program commenced is considered by internal stakeholders to be substantial. Further, the level of organisational cultural change anticipated under Construct NSW is a long term outcome which will take some time to achieve. However, greater clarity around the purpose, objectives, and accountabilities of Construct NSW between the OBC and BRD, and within BRD functional streams, outlined in Section 0, may aid in this shift. Thus, the findings in this section should be considered by BRD in addressing Recommendation 2.

More internal technical expertise is needed to drive improved regulatory decision making.

Finally, it is worth noting that the regulatory model established by the Embedding Construct NSW program is dependent on having access to the necessary specialist skills to inspect building quality, along with assessing practitioner performance and risk.

As part of the online survey, staff were also asked about the availability and frequency with which they accessed expertise from other areas of BRD to inform their regulatory decisions. The survey results indicate that the frequency with which staff were drawing on particular expertise from other areas of BRD decreased slightly between August and November 2021 (

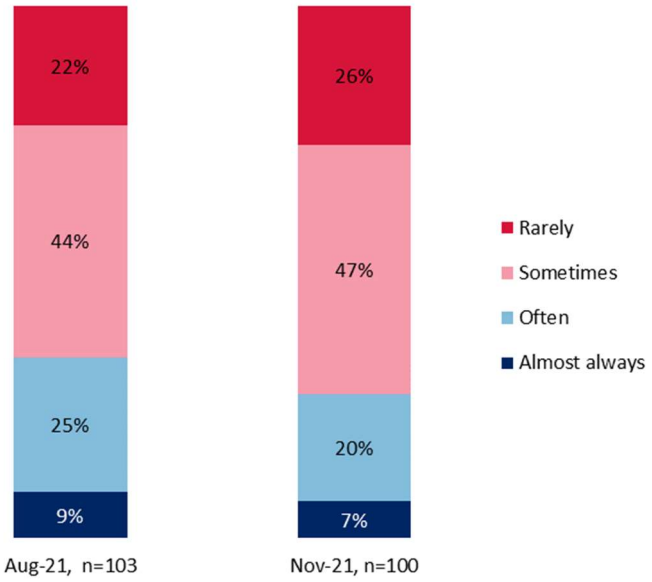


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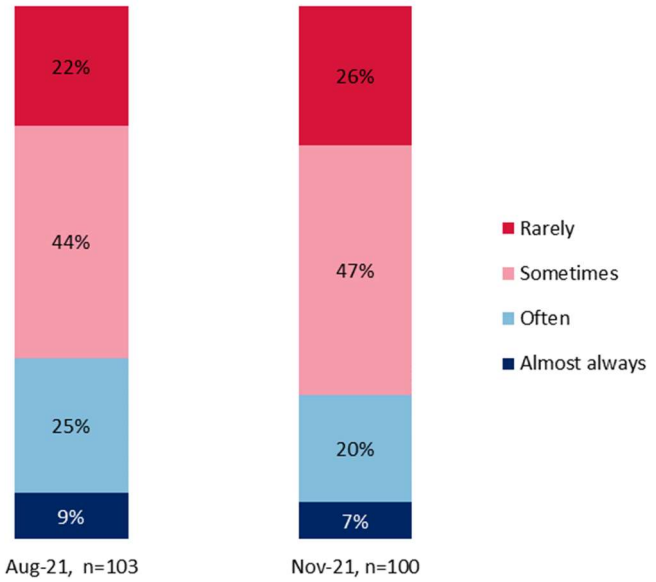
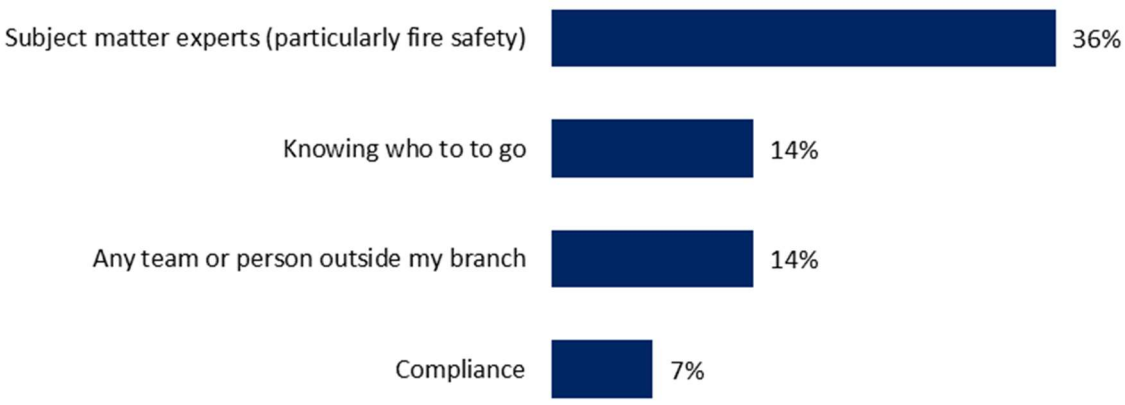
Figure 14: How often do you draw on particular expertise from another area of the organisation to do your work?



Of staff who provided commentary on areas of expertise they'd been having difficulties accessing, the most common issue identified was a lack of access to subject matter experts (particularly fire safety experts) (Figure 15). Other issues identified included not knowing who to go to, difficulties accessing any team or person outside of their branch, and accessing expertise from compliance staff.

Figure 15: What particular areas of expertise are you facing difficulties accessing? (n=28)



To verify the survey results, this topic was also canvassed during internal interviews which drew a mix of opinions. On the one hand, there was a position that previously underutilised expertise within BRD was beginning to improve:

> *"I think we're utilising the technical expertise within our ranks better. In Fair Trading and SafeWork we employ highly technically-skilled staff and my observation is we haven't been using these skills effectively. We're now starting to do this and I think that's skills utilisation and industry knowledge utilisation has something that's really improved."*

On the other hand, it was noted that the new regulatory model had increased demand for specialised expertise, and that this expertise was not yet fully embedded across all the parts of BRD where it is most needed:

> *"We need more technical expertise – currently it's at a trade level, we need higher expertise like structural engineers and quickly."*

This issue was raised in particular by representatives from IRAS where there was currently limited expertise amongst building inspectors to manage complaints being received about Class 2 buildings, *"...we need a number of skills, need engineers, fire protection specialists"*.

To address this in the short term, IRAS have been drawing on the highly specialised skills of OC Auditors within CDR to assist them to resolve the more complex complaints they receive. Whilst representatives from both streams welcomed the improved collaboration between the two teams, it was suggested that the current situation was diverting OC Auditor capacity away from more critical and strategic compliance areas required under the Embedding Construct NSW program:

> *"We need the lower-level complaints being managed in different ways to free up / reserve our technical expertise for the bigger stuff."*

Recommendation 9: BRD should seek to recruit more specialised expertise into IRAS to respond to enquiries and complaints about defects in class 2 buildings; and CDR to carry out compliance activities required under the new regulatory framework.

There is some support for the regulatory model introduced by the Embedding Construct NSW program to be expanded but the capacity and capability of BRD to do this alone was of some concern.

Whilst this transformation primarily focusses on the way BRD regulates the construction industry, there has also been consideration of how the new regulatory framework could be applied to other industries. This was explored through interviews with internal and external stakeholders.

In terms of other classes of buildings, stakeholders identified Class 3 and 9 (a and c) as a natural progression as they share similarities with Class 2 buildings. Class 1 were also identified as a target, although there was common concern shared among many about whether there weas sufficient resourcing and technical capability within BRD to regulate this industry.

A smaller number of stakeholders were opposed to expansion, at least in the short term, noting that BRD were just coming to terms with regulation in Class 2 and had concerns about BRD's ability to take on more of this style of regulation.

> *"The past year has been an onslaught for operational units to take on DBP because it is such a transformative piece of work and I'm concerned that as we start to bring more practitioners and*

more buildings and more effort into the schemes as well as adding on new schemes, we might not have the program support that's required."

External stakeholders also expressed mixed views about the expansion of the regulatory settings to a broader set of classes and practitioners, including trades. Industry representatives saw this as an important move to avoid risky practitioners moving from Class 2 buildings to other classes, but had concerns about how it would be practically implemented by the regulator given the scale of impact it had on the NSW construction industry.

Awareness and capability of the residential apartment industry to meet the new requirements set out under the DBP and RAB Acts

This section explored industry awareness and capability to operate under the regulatory model established by the Embedding Construct NSW program. It answers the following evaluation questions:

- What is the level of awareness and capability of the residential apartment industry to meet the new requirements set out under the DBP and RAB Acts?
- How efficient are new processes brought in to operationalise the DBP and RAB Acts for the residential apartment industry and consumers?

Design and building practitioners appear to be capable of complying with the changes introduced by the DBP Act.

By November 2021, the most significant changes brought in by the DBP Act were:

- new online registration requirements for design and building practitioners working in the Class 2 residential construction industry including the completion of two mandatory online training modules
- new requirements for designers and builders to submit regulated designs and associated declarations that are compliant with the Building Code of Australia and other relevant standards before, during and after construction.[12]

To assess design and building practitioners' overall capability to comply with the DBP Act, the evaluation assessed progress by design and building practitioners in meeting these new requirements.

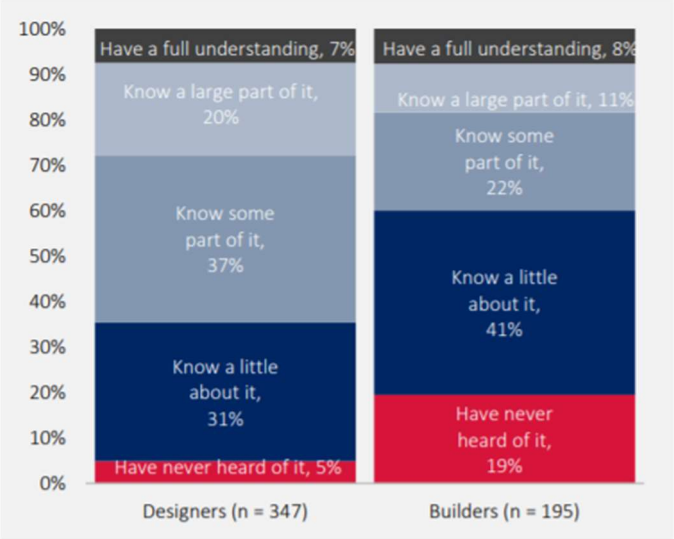
Industry awareness about the DBP Act and its requirements is improving but may not have reached smaller or regional businesses yet.

Prior to its implementation within BRD in July 2021, industry awareness raising activities about the requirements of the DBP Act were primarily led by the OBC. These activities included industry briefings/presentations and providing regular updates on social and other media.

[12] NSW Fair Trading. (2021). Declaration and lodgement process. Retrieved from: https://www.fairtrading.nsw.gov.au/trades-and-businesses/construction-and-trade-essentials/design-and-building-practitioners/declaration-and-lodgement-process

In September 2020, the OBC commissioned research which took a baseline measure of industry awareness about the DBP Act. It found that 36 percent of designers and 60 percent of builders had either never heard about, or knew very little about, the changes required by the DBP Act (Figure 16). These results indicated that there was a significant amount of work to be done in raising the awareness of the sector about the DBP Act prior to its implementation in July 2021.[13]

Figure 16: Baseline industry familiarity with the DBP Act, September 2020.



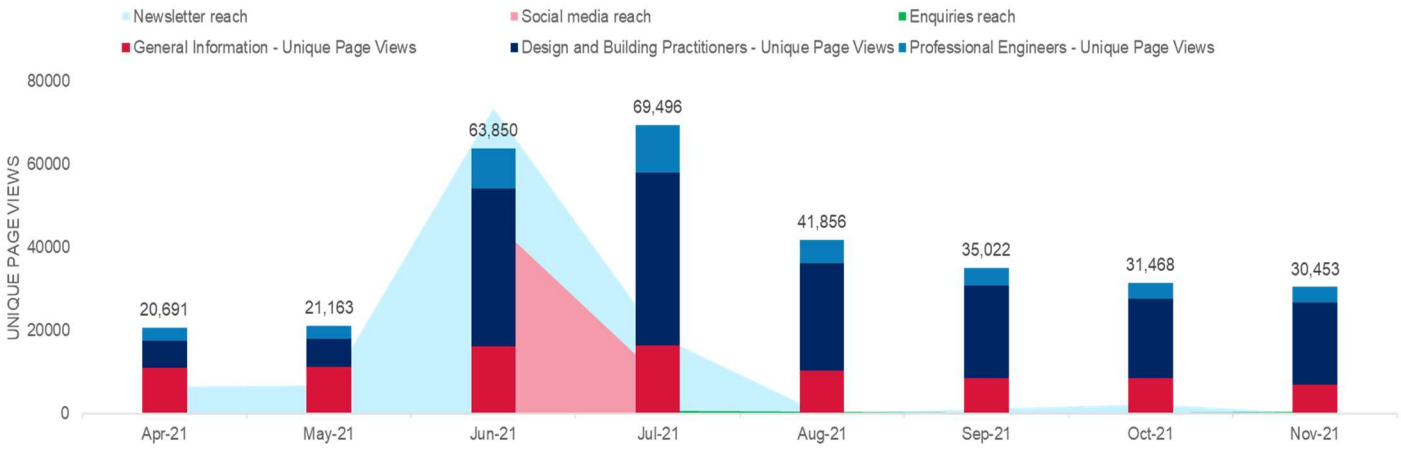
In April 2021, concurrent to ongoing awareness raising efforts by the OBC, BRD began to publish webpages communicating the requirements for design and building practitioners introduced under the DBP Act. BRD also commenced awareness raising activities about these changes through electronic direct mail (industry newsletters), social media campaigns and fielding enquiries received by Service NSW from industry and consumers.

A follow up survey measuring industry awareness of the DBP Act since these activities commenced is yet to be undertaken. However, as a proxy measure of awareness, the evaluation utilised BRD website engagement statistics along with data on the reach of awareness raising activities (industry newsletters, social media campaigns and enquiries) to determine how effectively practitioners and consumers have been directed toward key information about the reforms contained on the Fair Trading website.

Figure 17 shows unique page views of the key information related to the DBP Act published by BRD between April and November 2021, overlaid against the reach of primary awareness raising activities undertaken by BRD over the same period.

[13] Perera, H. et al. (2021). *Industry Report on Digitialisation of Design and Construction of Class 2 Buildings in NSW*. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-08/digitalisation-of-construction-industry-report.pdf

Figure 17: Unique page views for DBP Act webpages, November 2021



Since April 2021, BRD has attracted on average 35,316 unique views each month to key DBP Act information webpages. The electronic direct mail (industry newsletters) and social media campaigns in June and July appear to have generated the greatest traffic on these pages, contributing toward over 130,000 unique views in these two months.

In November 2021, almost 6,000 design and building practitioners were registered under the DBP Act and advice from BRD Building & Construction Policy and the OBC indicated that they did not expect substantial increases beyond this number. In November 2021, the Australian Bureau of Statistics reported there were 367,600 construction employees in NSW. Based on this information, this evaluation has estimated that NSW design and building practitioners represent approximately 2% of the NSW construction population. Given design and building practitioners represent only a small proportion of the total NSW construction populace the reach of these communication activities appears to be substantial.

Industry awareness was also explored during interviews with industry representatives. Participants had mixed views about how aware their members were of the new requirements brought in under the DBP Act. Some representatives (predominately design practitioners) noted that their membership had a high level of awareness, and this was due to the communication efforts of the OBC, BRD and their own internal communication and engagement efforts. Other representatives (predominately building practitioners) noted that awareness across their membership group was low:

> *"There is a broad understanding that these reforms are happening. I don't think industry has necessarily grasped what it means for them yet."* – Government representative

This was particularly the case for smaller building practitioners who are not members of industry associations and/or those operating in regional areas where there is less Class 2 development occurring:

> *"We've found that a lot of builders probably weren't that well prepared and had to play a fair bit of catch up. It didn't get real for them until* [the DBP Act] *came in."* - Design practitioner

"In every recent Class 2 application we have received, both the architect & builder were completely unaware of the DBP Act 2020." – Local Council representative

Recommendation 10: BRD should conduct post-implementation research to understand the extent to which awareness about the DBP Act has increased from baseline levels recorded in the OBC's building and design practitioners digital capability research, and to identify areas where low awareness of the reforms remains so that more targeted educational and awareness raising campaigns can be rolled out.

Design and building practitioners are increasingly engaging with their industry associations, who are a key source of information about the DBP Act.

Design and building industry associations play a key role in distributing information to their members relevant to their practice. This includes changes in legislation and regulation to help their members ensure they are compliant. To assess whether associations are actively engaging with their members to build sector awareness about the new requirements and changes under the DBP Act, an online survey was distributed to practitioners who had their application for registration recently assessed by BRD asking where they sourced their information about the DBP Act (Figure 18):

Figure 18: Where did you get information about the Design and Building Practitioners registration scheme? (n=354)

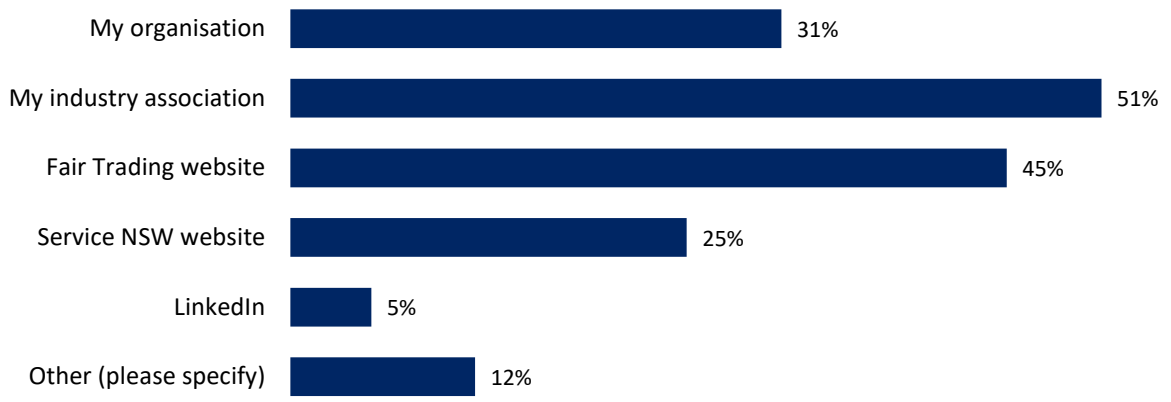


Figure 18 shows that approximately half of the industry survey respondents got information about the DBP registration scheme from their industry association (51%). This is consistent with information collected through interviews with industry representatives, most of whom reported that they have observed an increase in membership and engagement as a result of the Construct NSW reform agenda:

"We've had an increase in membership and drive to get more architects to become members. I think there is a real thirst for information amongst members." – Design practitioner

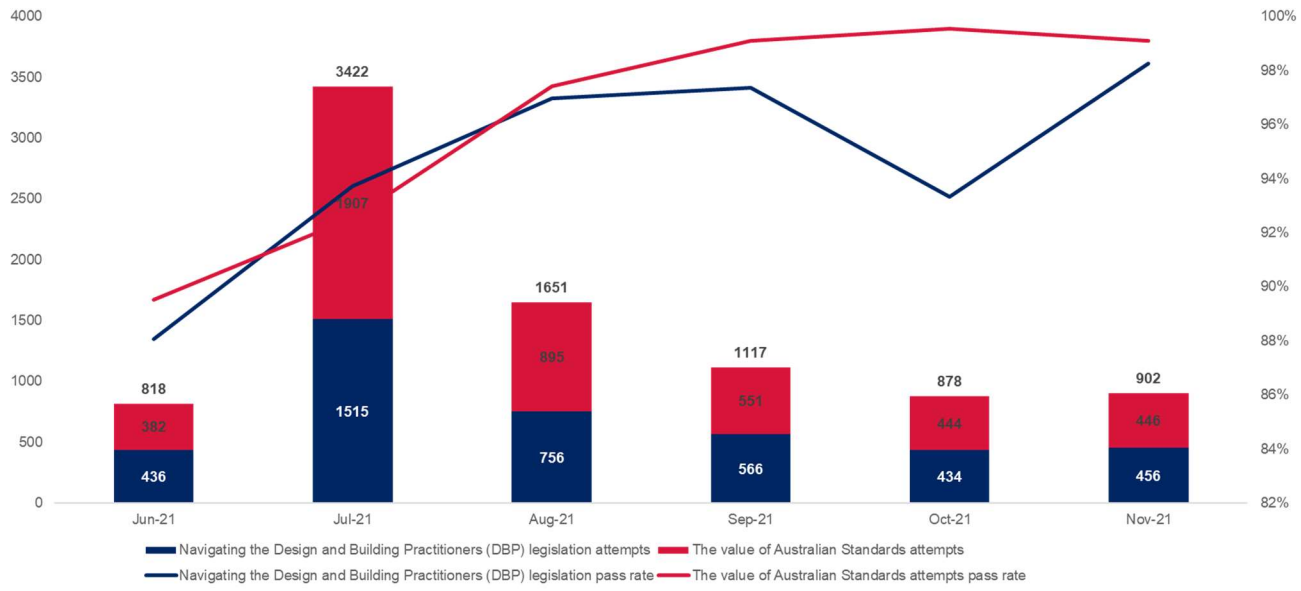
"We have seen an increase in members (approximately 33 percent) and substantial increase in attendance and our events. This is partly being driven by the reform agenda..." - Design practitioner

All interviewed industry representatives noted that they were running regular information sessions about the new DBP Act requirements with their members. They also highlighted that the level of engagement afforded to them by the OBC in the design and implementation of the Construct NSW strategy to date has been crucial to generating buy-in and acceptance from their members.

Design and building practitioners have been able to complete the mandatory training modules with a high success rate.

Prior to registering, design and building practitioners must complete two mandatory online training modules: *Value of Australian Standards* and *Navigating DBP Legislation*. Figure 19 shows the total number of attempts and pass rates[14] for these modules.

Figure 19: Course attempts and pass rate for mandatory modules required as part of design and practitioner registrations



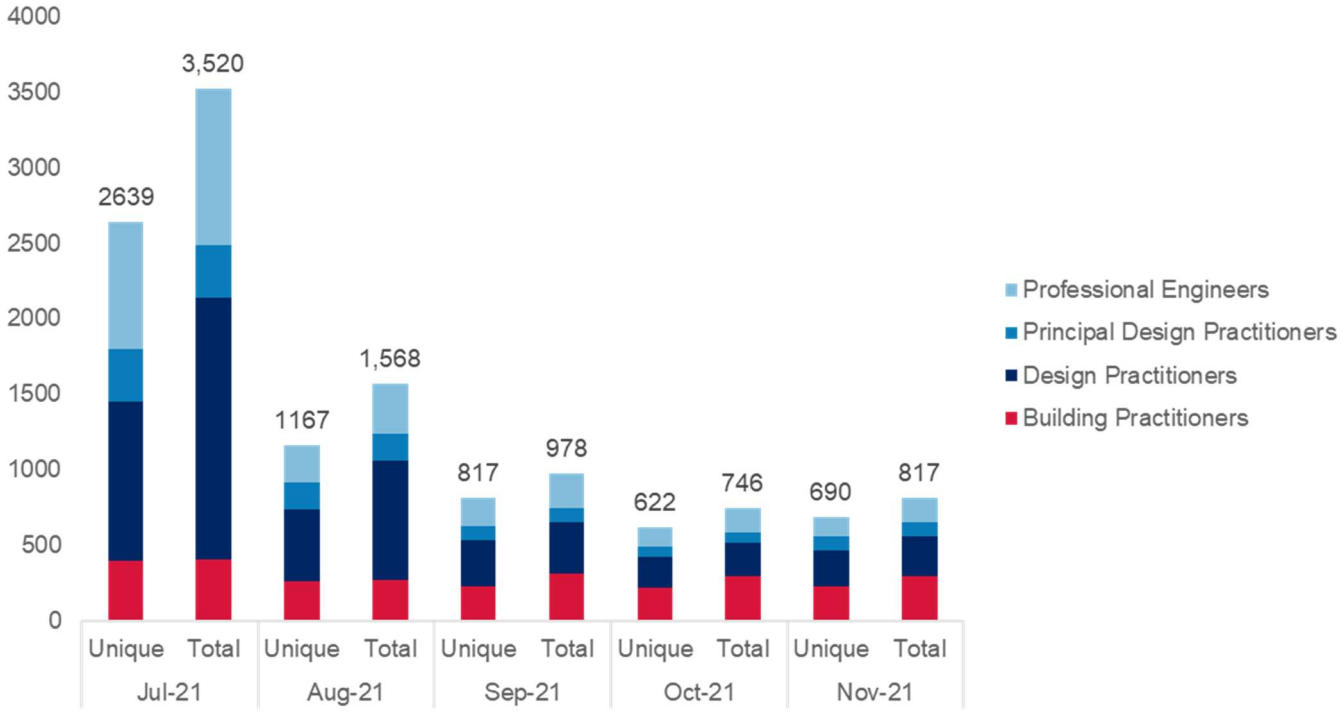
Between June and November 2021, there had been 8,788 attempts at the mandatory modules, resulting in 8,350 passes on the first attempt (95 percent pass rate), indicating that the vast majority of stakeholders are able to complete the modules with relative ease. The evaluation was unable to determine why pass rates are increasing over time, however, one reason could be due to the continuing awareness raising efforts undertaken by the OBC, BRD and industry associations.

[14] As the modules are a mandatory requirement to be registered as a practitioner, the pass rate reported in this evaluation is measured as those participants that passed the module on their first attempt.

Practitioners that have registered appear to clearly understand the new registration scheme requirements.

Between July 2021 and November 2021, 5,935 individual (unique) design or building practitioners registered under the new registration scheme. In total, there were 7,629 registrations during this period as practitioners may be registered for multiple practitioner types as well as multiple classes (Figure 20):

Figure 20: Unique and total Design and Building Practitioner registrations, July – November 2021.



The majority of registrations have been for design practitioners (44 percent) followed by professional engineers (25 percent) and building practitioners (21 percent). Over this time, there were 8 applications refused or cancelled with all 8 being refused under the Mutual Recognition pathway. The most common reason for refusal is that they applied under error when they should have applied under the DBP Act (for example, where they had NSW qualifications rather than interstate qualifications).

Since July 2021, following their DBP Act registration, each design and building practitioner has been sent a feedback survey to understand more about their level of understanding and capability in complying with the requirements. Figure 21 shows practitioners' responses to how well they understood the registration requirements.

Figure 21: How clear were you on the following requirements for the new registration scheme as part of the Design and Building Practitioners Act and how it applied to you? (n=340)

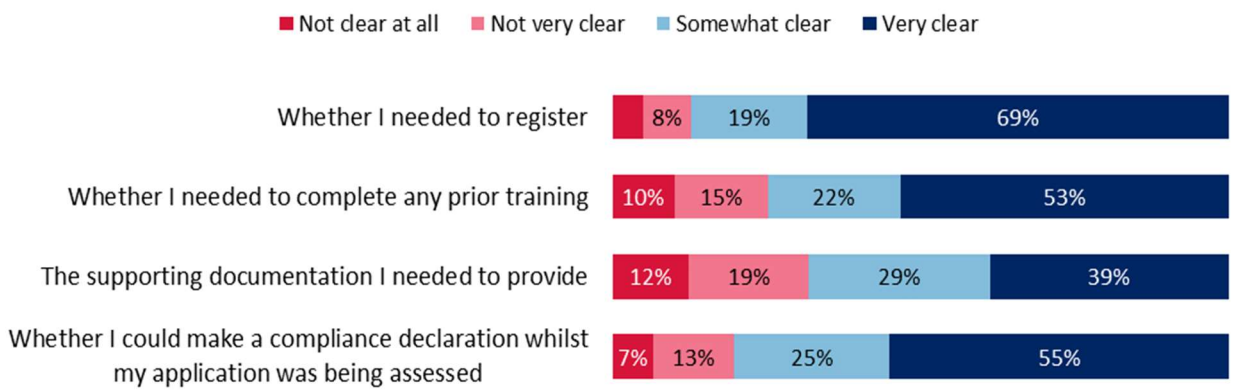


Figure 21 shows that most survey respondents were somewhat or very clear on whether they needed to register (86 percent), whether they could make a compliance declaration whilst their application was being assessed (80 percent) and whether they needed to complete any prior training (75 percent). Industry survey respondents were less clear on the supporting documentation they needed to provide (64 percent somewhat or very clear).

Whilst generally positive, the survey also attracted feedback to indicate that some practitioners found the registration requirements confusing, particularly in terms of what practitioner types they should apply for and the type and extent of documentation they needed to provide to prove their credentials. Some practitioners identified a need for more guidance on this aspect (industry survey feedback).

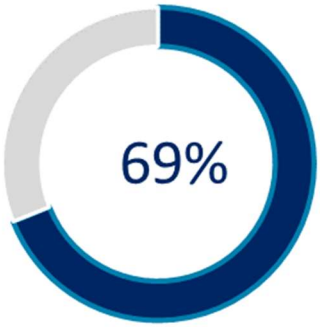
> *"I found that the definition of each of the available roles was really lacking. I could not understand which role I needed to apply for..."* - Practitioner, Industry Survey

Recommendation 11: BRD should continue to work with industry to clarify and refine (if/where required) the registration requirements for design practitioners, including developing more detailed guidance material about the practitioner classes they should apply for and the type and extent of documentation they need to provide to prove their credentials.

Practitioners are generally satisfied with the DBP registration process, but some aspects can still be improved

The practitioner survey also explored levels of satisfaction and pain points with the current registration process. The survey results indicate that the majority of applicants (69 percent) are satisfied or very satisfied with the registration process (Figure 22). The customer satisfaction score was maintained above 50 percent for the duration of the industry survey (August to November 2021) and trended upwards over the same period (not depicted).

Figure 22: Overall practitioner satisfaction with the registration process established under the DBP Act (n=328)



Applicants were most satisfied with 'the outcome of their application' (82 percent), followed by the 'time taken between when [they] lodged [their] application and being notified of the decision' (76 percent). Applicants were less satisfied with 'explanations provided for how decisions regarding [their] outcome were reached' (59 percent) and 'the customer service provided' (59 percent).

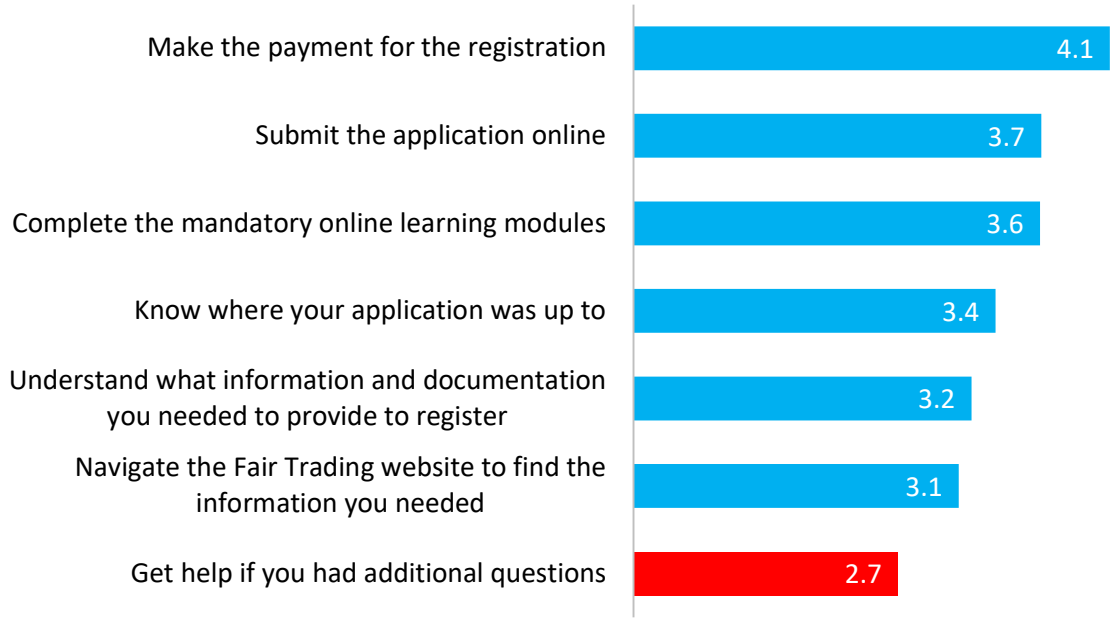
Applicants also found the registration process to be relatively easy to complete. The overall customer effort score for the DBP registration process was 3.4, sitting between the 'neither difficult nor easy' and 'easy' on the customer effort scale[15] (Figure 23). The customer effort score has been maintained above 3 since for the duration of the Industry Survey (from August to November 2021, not depicted).

Figure 23: Overall customer effort (n=327)

The overall customer effort score was dragged down by difficulties that applicants experienced 'getting help when they had additional questions' which attracted the lowest customer effort score (2.7) and was the only item that scored in the net negative range (below 3) (Figure 24). Improvements to the Fair Trading website (e.g. improving accessibility and navigability), along with improving the ability for Service NSW representatives to field practitioner queries, may drive improvement in overall customer effort.

[15] The customer effort scale ranges from 1 to 5 where 1 indicates that a particular task was 'very difficult', 2 represents 'difficult', 3 represents 'neither difficult nor easy', 4 represents 'easy' and 5 represents 'very easy'. Any score over 3 is net positive. Overall customer effort score is calculated by converting the five-point response scale (very difficult to very easy) to numerals (1 to 5, respectively) for each customer effort sub-driver, then calculating a combined average score of (1) all survey respondents **and** (2) all sub-drivers. Customer effort scores sit between 1 and 5 where 3 is the midpoint - a score over 3 indicates that a service or process a customer had to participate in was easier than it was difficult.

Figure 24: Customer effort drivers (n=327)



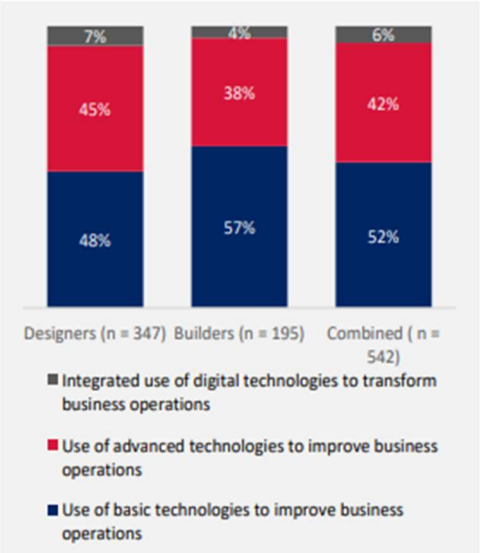
Practitioners are lodging regulated designs and compliance declarations, but it is too early to assess the quality of these and whether these are compliant with the requirements of the DBP Act.

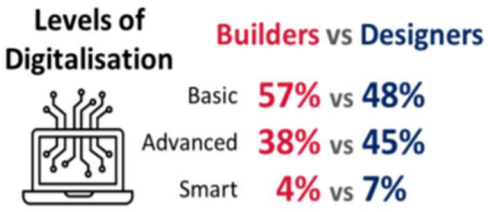
Once registered, design and building practitioners are responsible for submitting design and building compliance declarations in conjunction with regulated designs on the ePlanning portal at various points of construction.

Given the reliance on digital systems (ePlanning Portal) to support these changes, prior to commencement of the DBP Act, the OBC commissioned baseline research to understand the digital capability and maturity of designers and builders working in the Class 2 residential construction industry. The research found that the majority of Class 2 builders (57 percent) and designers (48 percent) are in a basic stage of digitalisation (52 percent overall), with small and micro practitioners more likely to have less digital maturity as shown in Figure 25.[16]

[16] Perera, H. et al. (2021). *Industry Report on Digitialisation of Design and Construction of Class 2 Buildings in NSW*. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-08/digitalisation-of-construction-industry-report.pdf

Figure 25: Baseline research on digital capability of design and building practitioners in the NSW Class 2 residential construction industry.



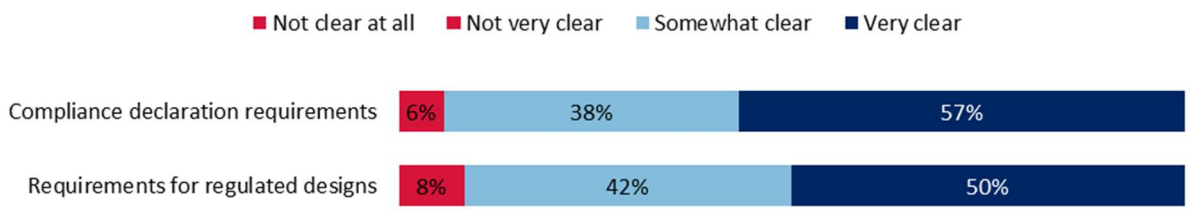


Whilst the baseline research on digital capability of design and building practitioners found strong support for standardisation of design approval (90% of designers prefer a standardised process for approval of building designs across all jurisdictions within NSW and 89% of designers prefer a standardised level of detail of design information to be submitted for approval of building designs across all jurisdictions within NSW)[17]. These results indicate that the lower levels of digital literacy found in the baseline research may affect practitioners' ability to comply with the new declaration requirements under the DBP Act.

To verify whether practitioners have found this process difficult, the evaluation analysed ePlanning portal data relating to compliance declarations, as well as consulting with industry representatives about the new requirements.

Respondents to the practitioner survey indicated that they have high levels of clarity about the compliance declaration requirements (94 percent) and the requirements for submitting regulated designs (91 percent) (Figure 26).

Figure 26: How clear are you now on the obligations attached to holding a registration? (n=324)



[17] Perera, H. et al. (2021). *Industry Report on Digitialisation of Design and Construction of Class 2 Buildings in NSW*. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-08/digitalisation-of-construction-industry-report.pdf

By November 2021, 36 per cent of survey respondents had lodged a design compliance declaration under the scheme (Figure 27). No respondents reported having lodged a building compliance declaration, most likely because no developments would have been at that advanced stage of completion.

Figure 27: Have you already lodged a declaration under the scheme? (n=316)

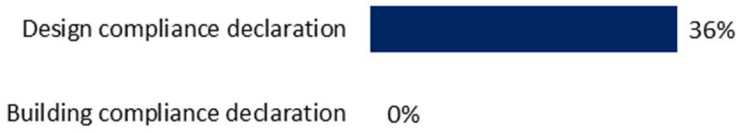
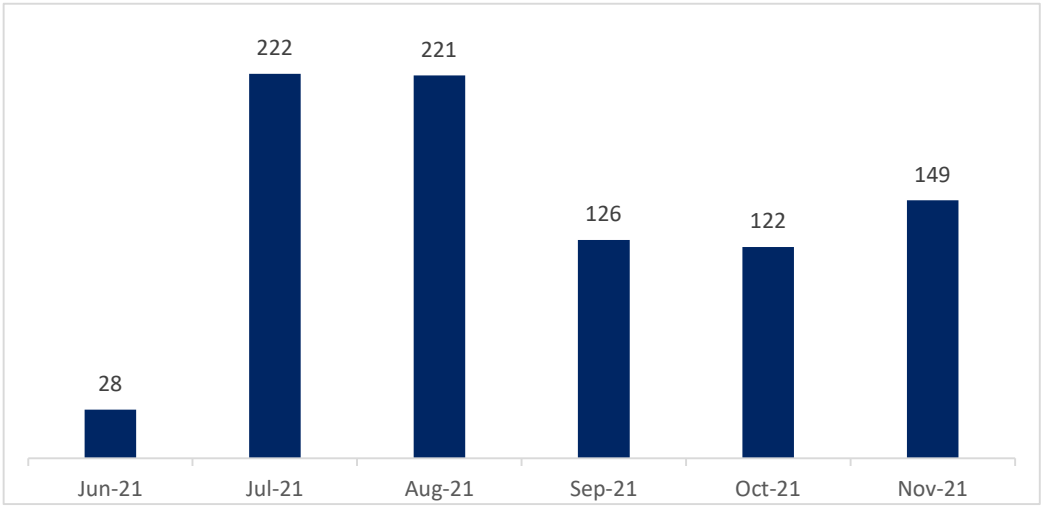


Figure 28 shows the total number of compliance declarations submitted to the ePlanning portal between July and November 2021. In total there were 868 declarations during this period, with 145 submitted on average each month.

Figure 28: Compliance declarations lodged in ePlanning by design and building practitioners, July-November 2021.



The evaluation was unable to obtain a breakdown of the types of declarations being lodged in the period, however, advice from the OBC suggests that the majority of the declarations would be design compliance declarations as the functionality for Building Compliance was only released in December 2021. Further, both design and building compliance declarations are only required if the building work started after 1 July 2021 for new work.

A quality assurance mechanism for these declarations was included under Section 92 of the DBP Act which provides that the Secretary may conduct an audit to assess whether a lodged declaration complies with the requirements of the legislation. At the time of writing, this assurance function and capability was still being developed within BRD. As a result, the evaluation was unable to obtain data to assess the quality of regulated designs and associated compliance declarations.

Recommendation 12: To ensure practitioners are capable of complying with the declaration requirements established under the DBP Act, BRD should prioritise the rollout of the design

audit function to ensure that the quality of lodged declarations complies with the requirements of the DBP Act.

Practitioners have had challenges lodging declarations

Given the data available, the evaluation was unable to make a judgement about whether practitioners are capable of complying with the declaration requirements established under the DBP Act. However, it is worth noting that during interviews some practitioners noted experiencing difficulties in lodging compliance declarations. These challenges are largely related to technical limitations in the ePlanning portal, such as glitches erasing the progress of practitioners during online submission that often requires the reuploading of documentation. Aggregated qualitative feedback from the industry survey also identified limitations with declaration forms.

Industry organisations who identified that their members were having issues lodging declarations also acknowledged that the declaration (and documentation) requirements represent a challenging but necessary shift that the residential apartment industry should adapt to.

> *"The need to have regulated designs lodged – this is a big shift. Industry had very much gone away from having that level of documentation ready before getting a Construction Certificate. Builders have had to rethink how to progress through the building program and the degree of design engagement prior to getting a Construction Certificate."* – Building Practitioner

Recommendation 13: BRD and DPE should work together to improve the user experience of the ePlanning portal to allow practitioners to lodge compliance declarations with greater ease.

Design and building practitioners appear to be capable of complying with the changes introduced by the RAB Act.

The RAB Act requires that a developer with building work that is approaching completion must give notice of the date they plan to apply for an OC. This is known as an Expected Completion Notice and must be given between 6 and 12 months before applying for an OC. Without an OC, the building can't be occupied, and the sale of apartments can't be settled, protecting buyers and residents from poor construction.[18]

The RAB Act also provides the regulator with powers to enter building construction sites to do in-depth inspections without notice or permission to identify and address issues of non-compliance and serious defects identified in residential apartment buildings. These inspections can be carried out randomly (known as anytime, anywhere inspections), as part of

[18] NSW Fair Trading. (2021). Notice of intended completion of building work. Retrieved from: https://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/notice-of-intended-completion-of-building-work

granting an OC (pre-OC audits), and on buildings completed in the last 6-10 years (legacy audits).

In order to make an evaluative judgement about design and building practitioners' awareness and capability to comply with the RAB Act, the evaluation assessed progress by design and building practitioners in meeting these new requirements.

Industry awareness of the RAB Act requirements appears to have increased over time.

The RAB Act took effect in September 2020 and, like the DBP Act, industry awareness raising activities about the requirements of the RAB Act have primarily been led by the OBC. BRD began producing information webpages about the RAB Act and its requirements in September 2020. Figure 29 shows the total and unique visits to these pages over time:

Figure 29: Total and unique page views for RAB Act webpages, September 2020 - November 2021

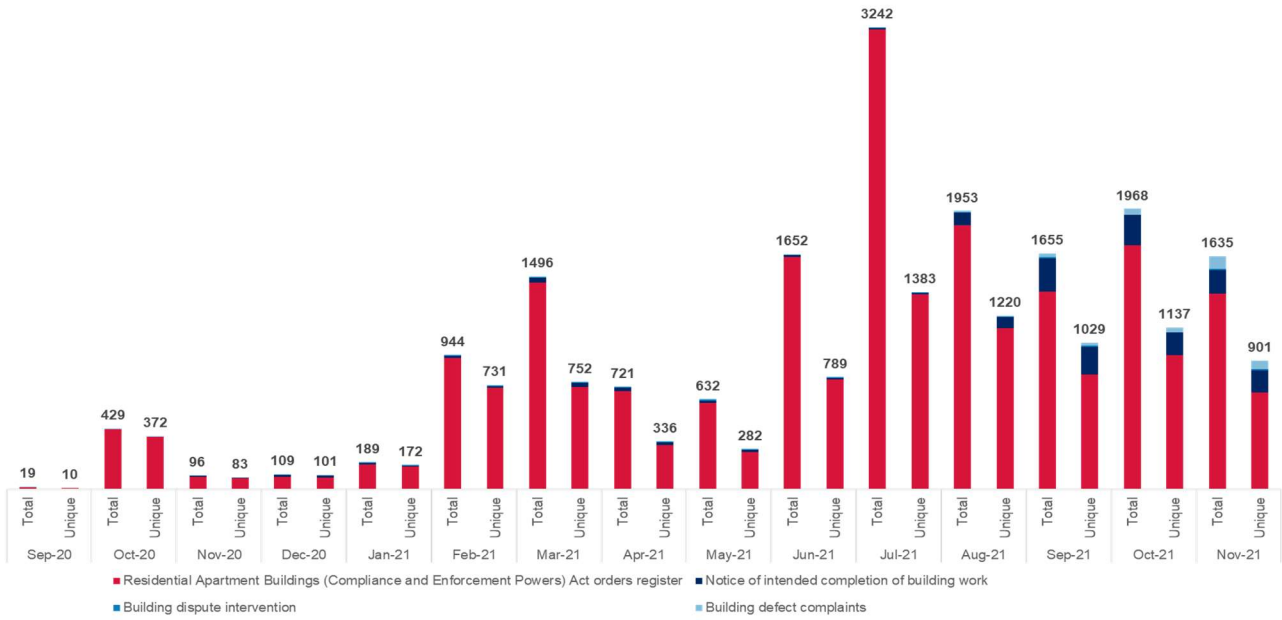


Figure 29 shows that there is between September 2020 and November 2021, on average, 620 unique visits per month to RAB Act webpages - primarily toward the public register of RAB Act orders webpage. A large proportion of website traffic to RAB Act webpages occurred after June 2021, at the same time the DBP Act commenced.

Based on this information, it is difficult to draw conclusions about whether the industry is sufficiently aware of the changes brought in by the RAB Act at the time they commenced. For example, comparatively fewer visits to RAB Act webpages compared with DBP Act related webpages (Figure 17) may be because they are only relevant to a small subsection of the

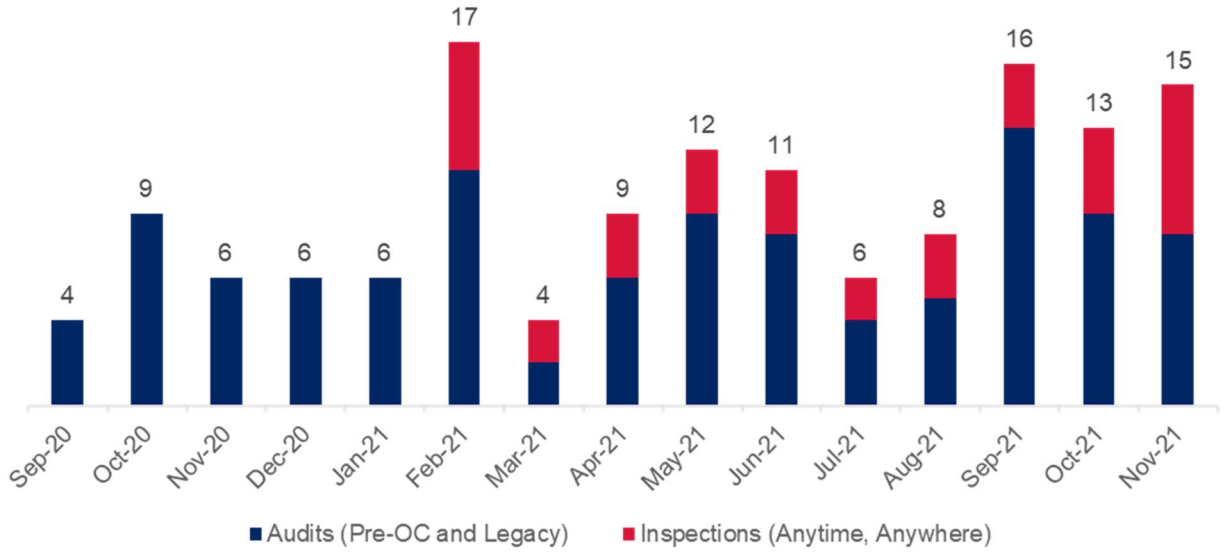
design and building practitioner population, namely developers[19], who are responsible for providing the expected completion notice to the regulator.

Despite this limitation, during interviews all industry representatives noted that they and their members are aware of the RAB Act and its requirements, primarily due to the direct engagement efforts of the OBC and the information dissemination activities undertaken by individual industry associations.

Industry practitioners are providing the regulator with notice of expected completion and the regulator is actively inspecting the quality of these buildings.

Between September 2020 and November 2021, there were 1,228 expected completion notices lodged. This triggered a total of 106 audits (including both pre-OC and legacy audits) and 36 anytime, anywhere inspections (Figure 30).

Figure 30: RAB Act audits, September 2020 – November 2021.

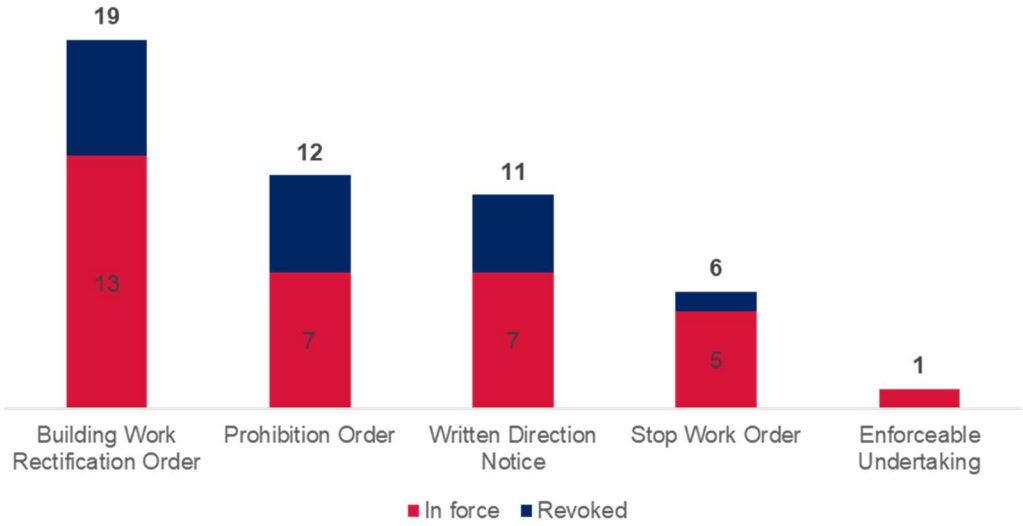


Between September 2020 and November 2021, these audits have detected 432 serious defects and 1,497 potentially serious defects, resulting in a total of 49 orders issued to practitioners, with building work rectification orders being the most common compliance mechanism (Figure 31).

[19] A developer is defined in section 4 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* as any one of the following:

- the person who contracted, arranged or facilitated building work to be carried out
- the owner of the land on which a building or part of a building is erected or constructed (who was the owner when the building work was being carried out)
- the principal contractor for the building work within the meaning of the *Environmental Planning and Assessment Act 1979*
- the developer for building work for a strata scheme within the meaning of the *Strata Schemes Management Act 2015*.

Figure 31: Orders issued by type and status, September 2020 – November 2021.



It should be noted here that the evaluation observed some discrepancies in the total number of audits/inspections undertaken since commencement of the RAB Act held across different functional streams who use this information for various reporting and record keeping purposes. This discrepancy also meant the evaluation was unable to confidently determine the split between pre-OC audits and legacy audits, so they have been reported at an aggregated total, although the majority of these would be pre-OC audits.

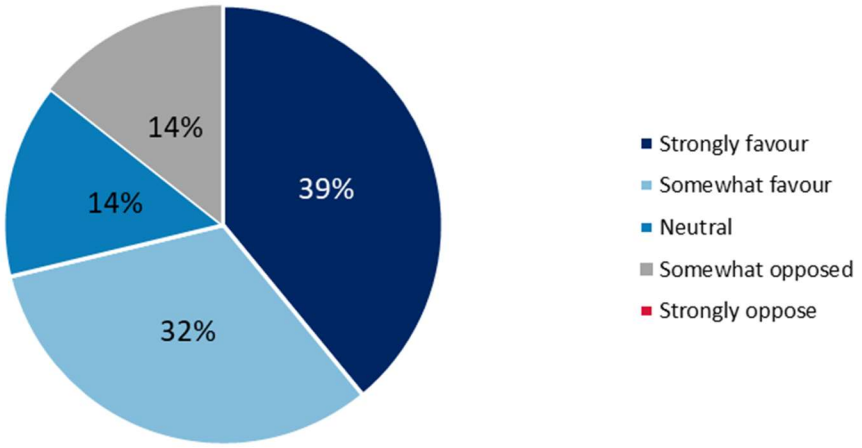
Consultation with representatives from the OC Audit team indicate that a significant challenge in keeping up to date records with regards to RAB Act audit and inspection activities is that auditors are required to use multiple systems. Currently the team are required to log their audit and inspection activities on SafeWork's WSMS system, with follow up case management functions recorded on Fair Trading's CAS system, and their own internal systems used for collaboration purposes, which can result in some inconsistencies in records across these systems – mainly due to human error and a high volume of audits and inspections. It was suggested that a consolidated and more user-friendly record keeping system would benefit the team, both in streamlining and making their activities more efficient, and in ensuring a single source of truth for key performance information about RAB Act activities for the Embedding Construct NSW program.

Recommendation 14: BRD should investigate the systems needs of OC Auditors and either explore options to either adapt or leverage current systems available to ensure they are fit for purpose, or establish a new record keeping / audit system to more effectively support RAB Act activities.

The residential apartment industry is broadly supportive of the DBP and RAB Acts and the processes implemented to operationalise them, but there is some concern about unintended consequences.

All industry stakeholders that participated in interviews welcomed the changes brought in by the DBP and RAB Acts, noting that it brought improved and shared accountability for all practitioners working in the Class 2 residential construction industry; and, that the new regulations will help 'clean up' their industry and improve the reputation of their professions, particularly in the eyes of the public. This view was shared by practitioners who completed the online survey, where the majority (70 percent) somewhat or strongly favoured the overall changes introduced by the DBP Act (Figure 32):

Figure 32: How supportive are you of the overall changes introduced by the Design and Building Practitioners Act? (n=292)



Practitioners and industry organisations were also supportive of the new enforcement capabilities brought in by the RAB Act, seeing it as a necessary way to lift industry standards and crack down on poor design and building practices.

Despite this, during interviews industry stakeholders expressed some concern about the unintended impacts of the regulatory regime, which are discussed in the preceding sections.

Some practitioners are concerned about the rising costs of Class 2 residential construction.

Interviews with industry stakeholders indicated some concern that the new regulatory regime would result in increasing costs for practitioners and the end consumer of new Class 2 residential buildings. These costs were expected to come from increased demand for design work, along with increasing insurance costs.

Increasing design costs

As the DBP Act requires regulated designs and any variations to these designs to be submitted on the ePlanning portal, there was a view amongst practitioners that this may drive increased demand for design practitioners on projects for longer periods of time:

"The biggest issue is needing to have all designs up front. If you have to make changes along the way it adds more costs and complexity and ultimately impacts on affordability. Whilst buildings might be more trustworthy, the product is going to more expensive." - Building practitioner

They noted that the costs of this demand are likely to be passed on to the end consumer, increasing the price of apartment buildings. However, consultation with internal stakeholders also indicated that these perceived additional costs would like dissipate over time, and do not take into account the time and cost savings from not having the remediate defective building work.

Increasing insurance costs

Some industry organisations also shared concerns about the possibility of rising insurance costs (professional liability insurance and decennial liability insurance) keeping smaller entities out of the Class 2 design and construction market. Anecdotally, industry practitioners have already observed this occurring for high risk or highly accountable practitioners in the industry.

" ... we're also observing insurance costs increasing for members. Building certifier's insurance costs skyrocketed – one practitioner's public liability insurance premium went from $15,000 to $100,000 due to changes in regulation..." – Building Practitioner

The impact of increasing insurance costs would be twofold. First, the costs may need to be passed on to the end consumer, increasing the overall price of apartment buildings. Second, the insurance costs may simply be unaffordable for some smaller practitioners, impacting on their ability to operate in the Class 2 residential market.

Some practitioners are concerned that the regulatory model is moving practitioners away from working in Class 2 residential construction.

As the regulatory model currently only applies to Class 2 building practitioners, there was a concern held by some industry organisations that "dodgy" players were moving to classes that don't have the same regulatory framework and practitioner requirements imposed. Equally, some good players may decide to stop working on Class 2 until they feel certain about the registration and the new declaration process.

"...Class 2 residential sector is not attractive as its low margin and now highly regulated. Some engineers and other practitioners are moving to other classes of buildings which is an unintended consequence – the practitioners that the reforms are trying to regulate will move on, but also the good players who can't be bothered with the new regulations will also move on." – Design Practitioner

To this end, industry organisations broadly supported the expansion of the regulatory model to other classes of buildings to mitigate this risk.

Some practitioners are concerned that the overly restrictive criteria in the registration requirements may constrain supply of labour in the industry

Some industry organisations and practitioners think that with registration requirements for design practitioners are overly prescriptive, excluding some practitioners they believe are qualified to design on Class 2 buildings.

> *"Requirements of registration under the DBP Act are too prescriptive." (Industry organisation)*

This perspective was primarily held by design practitioners and their member organisations, particularly those that are not fully qualified architects. According to one industry organisation, there are approximately 5 percent of their members who are qualified to undertake work as architects on Class 2 buildings but do not meet the current criteria to be a registered practitioner under the DBP Act.

Another industry organisation said that some of their members with (from their perspective) sufficient experience and expertise to design in the Class 2 sector (typically design practitioners who have completed an undergraduate, but not masters, degree in architecture), were unable to register when the portal initially opened. These industry organisations said that BRD had responded to their feedback by working with them to fine-tune the registration requirements for some practitioner types to make them less restrictive, but concerns remain about their members' ability to participate in the Class 2 workforce.

A variety of industry organisations and practitioners believe that many of the competencies required for Class 2 practitioner registration are transferable skills as the core design principles can be applied to other building classes and can therefore be learnt/ better understood through previous experience working on other building classes.

> *"The issues in the industry that led to the establishment of the DBP Act are related to general and sound construction knowledge, and that doesn't necessarily need a member to have worked consistently is the residential apartments sector for the last 5-7 years. It just needs someone who actually understands the principles that underpin sound construction and building design. (Industry organisation)"*

This has led to some practitioner groups being concerned that the new registration requirements may have the unintended consequence of reducing the labour force available to design and build Class 2 buildings in NSW.

> *"The concern is that the regulations are constraining supply of skills in the market and also overly favouring architects as the accepted design profession – securing architects as a Class 2 niche / creating a monopoly and excluding building designers. (Industry organisation)"*

Practitioners and industry organisations cited some other specific issues that could be driving practitioners away from participating in the Class 2 building labour force, including:

- The restriction of certain design roles to architects, reducing the ability for building designers to participate in Class 2 building projects (while noting this restriction is consistent with planning restrictions)

- The desire of some practitioners to avoid the work required to register by moving into other building classes

- The deterring of younger design practitioners who can't meet the Class 2 experience requirements but are (in their opinion) qualified to design Class 2 buildings.

Recommendation 15: In partnership with industry, BRD should work to actively monitor the unintended impacts of the reform agenda, including as a priority:

- **the extent and drivers of design and construction costs for Class 2 buildings for practitioners and end consumers**
- **the movement of practitioners from Class 2 sector to other classes of buildings**
- **the supply of labour to Class 2 buildings.**

Preliminary evidence to suggest confidence in the Class 2 residential building sector may be improving.

The ultimate outcome of the Construct NSW strategy is to restore confidence in the Class 2 residential construction industry. This chapter assesses the contribution of the Construct NSW strategy towards restoring confidence in the residential construction industry since the appointment of the NSW Building Commissioner in August 2019.

It should be noted from the outset that, based on available program documentation, the evaluation was unable to identify how confidence is defined and ought to be measured in the sector. As a starting point, the evaluation has considered confidence pertains to both consumer confidence in the industry and the built product as well as industry and consumer confidence in the regulator. Given the recency of the reforms, and that confidence is typically developed over a long period of time, the evaluation has only found limited evidence that these outcomes are being achieved. These are presented in the following sections.

Recommendation 16: In partnership with the OBC and industry, BRD should work to define and develop a measurement framework around confidence in the Class 2 residential sector to enable transparent monitoring of this outcome.

Design and building practitioners are engaging in further learning to improve their knowledge and capability.

A key focus of the Construct NSW strategy is to continue to lift the capability of the NSW construction industry by addressing gaps in practitioner knowledge and skills that affect the trustworthiness of buildings (Pillar 3). To deliver this outcome, in partnership with TAFE NSW and industry, the OBC established the Construct NSW learning management online platform that provides education and training for practitioners.

Whilst not a perfect measure of improving confidence, the evaluation assessed whether practitioners were accessing and utilising the learning resources as an early indicator of improving capability within the industry.

Between September 2020 and November 2021, 10 modules were developed and made available on the learning platform (in addition to the two mandatory modules required to register under the DBP Act):

Table 12: Construct NSW Learning Modules available, November 2021

Construct NSW Learning Module	Publication Date
Understanding occupation certificate audits	September 2020
The NSW Planning Portal	December 2020
Communicating to build stronger foundations	March 2021
Project Remediate: Understanding the program	May 2021
Value of Australian Standards[20]	June 2021
Navigating DBP Legislation	June 2021
Ethics in Construction	June 2021
Multi-disciplinary Design Integration	July 2021
Fire and Rescue NSW regulatory pre-occupancy inspections	August 2021
Asbestos Awareness for Solar Installers	September 2021
Waterproofing Design Principles	September 2021
Project Remediate: Safety standards at occupied sites	December 2021

Since September 2020, there have been 25,426 module purchases by 11,845 individual customers. This indicates, at the time of writing, demand and use of the Construct NSW Learning Module was broader than those required to register under the DBP Act.

Almost one quarter (24 percent) of all Construct NSW Learning Module customers are builders, accounting for 27 percent of module purchases. Other design and building practitioners (engineers, architects, and certifiers) made up a further 45 percent of individual customers and 48 percent of module purchases (Figure 33):

[20] Note: The total attempts and pass rate of the Value of Australian Standards and Navigating the DBP Legislation are discussed in Section 0

Figure 33: Number of individual customers and module purchases by licence category.[21]

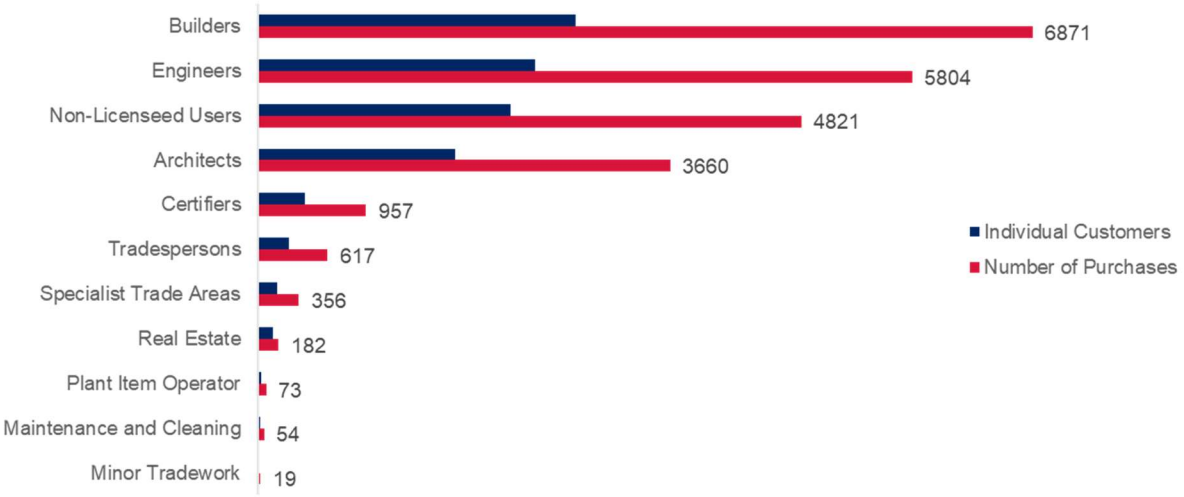
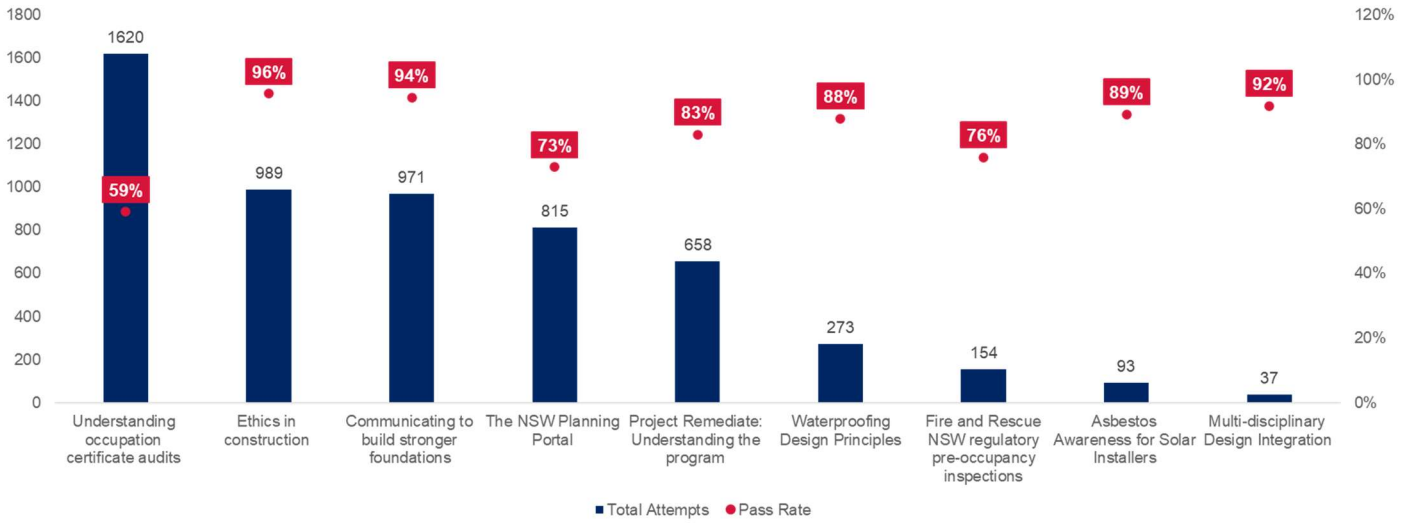


Figure 34 shows the use and pass rate for each of these modules. The most popular module from this suite has been the 'Understanding occupation certificate audits' module relating to the changes brought in by the RAB Act, with 1620 attempts since it was published. This module is also the oldest and has the lowest pass rate of the suite, indicating only 59 percent of participants passed on the first attempt. Lower pass rates were largely observed in the initial months of the RAB Act and this has since improved. This result further supports the view that there was generally low awareness amongst practitioners in the initial months of the RAB Act's commencement and is consistent with Figure 29.

Figure 34: Total attempts and pass rate for available Construct NSW Learning Modules.



Whilst it is too early to determine the impact that completion of these online learning modules is having on the quality of Class 2 buildings, this analysis shows practitioners are actively engaging in further learning to improve their knowledge and capability.

[21] Note: There were 2012 individual customers and 1538 module purchases where the user did not fill in their licence category at registration. These cases were excluded from Figure 34.

The incidence rate of serious defects in recently completed apartments has reduced, but the downward trend has slowed over time.

As part of Construct NSW, the OBC and Strata Community Association (NSW) partnered to produce baseline data on the prevalence and impact of serious defects in residential strata buildings completed since 2014. Serious defects were defined as those which relate to the five key building elements - waterproofing, fire safety systems, structure, enclosure, and key services.[22]

The research found that 39 percent of strata buildings in the survey sample had experienced serious defects in the building's common property. The majority of serious defects related to waterproofing, which affected 63 percent of all buildings surveyed. Other serious defects related to fire safety systems (38 percent), structure (27 percent), enclosure (26 percent), key services (17 percent) and non-compliant cladding (6 percent).[23]

To assess whether the incidence rate of serious defects has reduced, these baseline figures were compared with monthly defect information collected by the OC Audit program, an inspection regime introduced under the RAB Act (see Figure 35)

Figure 35: Incidence rate of serious defects in Class 2 buildings recorded from monthly OC Audits, September 2020 – November 2021.

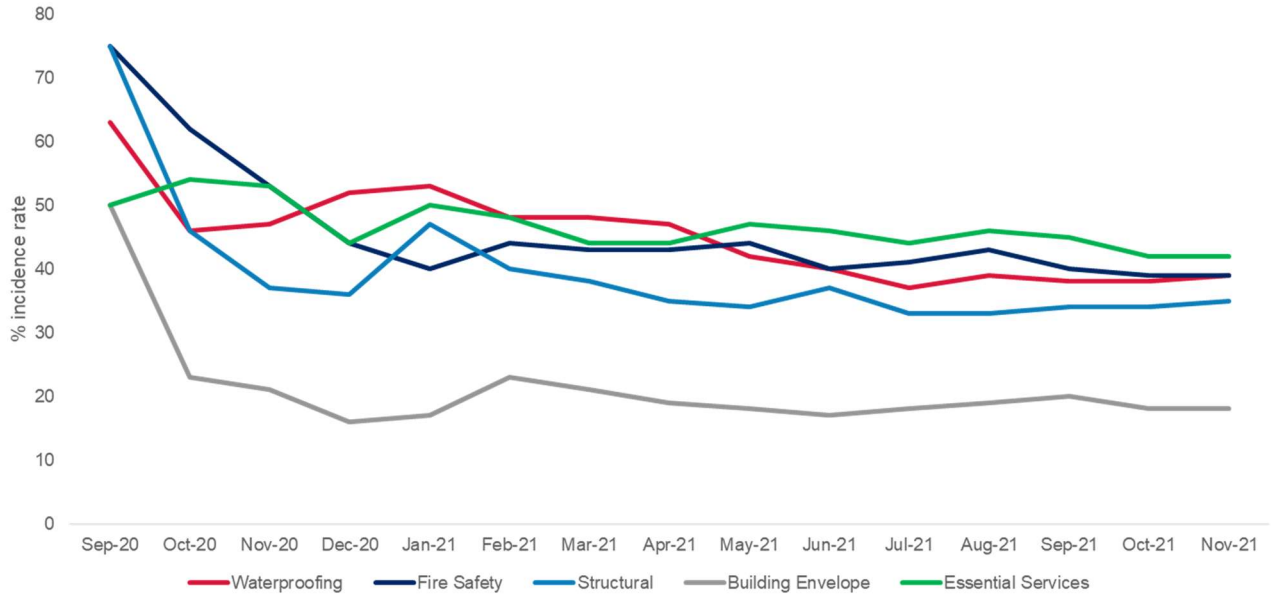


Figure 35 shows that the incidence rate of serious defects has reduced across all five areas between September 2020 and November 2021. The most significant reduction in incidence of defects was observed for those related to the building envelope, which saw a 64 percent reduction in incidence rate between September 2020 and November 2021, followed by

[22] OBC and SCA. (2021). Serious defects in recently completed strata buildings across New South Wales. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-10/Serious_defects_in_residential_apartments_research_report.pdf
[23] OBC and SCA. (2021). Serious defects in recently completed strata buildings across New South Wales. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-10/Serious_defects_in_residential_apartments_research_report.pdf

structural defects (↓53 percent), Fire Safety (↓48 percent), Waterproofing (↓38 percent) and a more moderate reduction for defects in essential service (↓16 percent).

Whilst promising, the results of this analysis should be interpreted with caution. Firstly, it is important to note that OC Audits are purposefully selected to target high risk projects, based on risk intelligence selected by DI&A along with industry knowledge held by the regulator. Second, OC Audits have been conducted for around 5 percent of buildings for which an expected completion notice has been lodged[24]. As a result, the analysis alone is not an indication that the quality of class 2 buildings across NSW is improving as a whole.

Interestingly, it is also worth noting that Figure 35 shows the reduction in incidence rate of serious defects has been slowing over time. For most serious defect areas, the most significant reduction in defect incidence rate was seen in September to December 2020. This downward trend has steadied through 2021, indicating that serious defects continue to be present in sites selected for audit – albeit at a reduced rate (see Figure 35). These results indicate further engagement with industry will be necessary to identify opportunities to further reduce the incidence rates of serious defects.

Recommendation 17: Continue to engage industry with serious defect data collected by the OC Audit program to understand the reasons why serious defects remain in audited Class 2 buildings and co-develop an action plan to further reduce their incidence rate.

Industry representatives think it is too early to determine whether consumer confidence in the industry and built product has improved but believe government also has a key role to play to improve this.

To understand whether these improvements have translated into improved confidence in the industry and built product, industry representatives participating in interviews were asked whether they have observed any evidence that confidence in the Class 2 residential construction industry has increased as a result of the reforms.

All participants noted that it was too early to observe the impact of the reforms in the industry as, at the time of writing, there hasn't been a building completed under the new regulatory framework:

> *"We have not observed any change in consumer sentiment because the real effects on the quality of buildings will not be seen for a number of years, and only for new buildings."* – Consumer association

Many external stakeholders also noted that the current discourse about Class 2 buildings in the media was mostly negative and was unlikely to be contributing toward improving confidence amongst consumers about the quality of Class 2 stock. Many of these stakeholders argued that media released by the OBC was contributing to this negativity. Whilst some noted that this may be a necessary tactic to 'clip practitioners around the ears', many felt it was

[24] Between September 2020 and November 2021, there have been 1,228 expected completion notices lodged, 65 of which have undergone an OC Audit (see Section 0)

becoming time for the OBC (and industry more broadly) to begin to publicly celebrate progress and good practices observed in order to contribute to building confidence within the broader community. There is evidence that this is starting to occur. For example, the OBC have publicly recognised the efforts of some practitioners in commencing and achieving their ICIRT rating and explaining the implications of the ICIRT rating on improving practice and confidence in the industry.

Recommendation 18: In partnership with industry, the OBC and BRD should continue to provide balanced communication to the broader public on progress made to date in delivering the Construct NSW reform agenda based on robust and transparent performance information available.

Industry confidence in the regulator appears to have improved, but it is too early to determine what impact the program has had on consumer confidence in the regulator.

Whilst interview participants were unable to provide much insight about whether confidence in the industry and built product had improved since the DBP and RAB Acts commenced, there was broad agreement that the reform agenda had contributed toward improved industry confidence in the regulator:

> *"There is significant confidence in OBC and the reform agenda from a consumer perspective. There is also confidence amongst industry professionals."* – Consumer association

However, it was also suggested that, whilst the DBP and RAB Acts provide the regulator with substantial regulatory powers, they may not have been used to their full potential yet:

> *"…the deemed registration has gone ahead without much use of regulatory powers 'teeth'. I expect greater impact in the industry once the regulatory powers are put to use."* – Design practitioner

Confidence in the regulator applies to consumers and their willingness to report defects in Class 2 buildings to NSW Fair Trading for resolution. This aspect was investigated by the Strata Manager survey conducted by the OBC and Strata Communities Association in September 2021, finding:

> *"Strata schemes preferred not to involve Fair Trading in resolving defects, only lodging a complaint in around 15 percent of cases. The very low number of complaints likely reflected dissatisfaction with previous interactions…. The time taken to resolve defects varied greatly across the sample, with around 38 percent of buildings taking over 12 months and 25 percent taking less than 6 months."*

The report also found that, since the introduction of the RAB Act in September 2020, there have been significant enhancements to Fair Trading's technical capabilities, complaint handling processes and regulatory powers. Considering these changes, the owners'

corporations which lodge complaints with Fair Trading in the future could expect to achieve better outcomes.[25]

The evaluation analysed the NSW Fair Trading Complaints Administration System (CAS) to assess whether Embedding Construct NSW program has improved consumers' willingness to lodge, and the regulators' ability to resolve, complaints about defects in Class 2 buildings.

Figure 36 shows the total number of complaints and enquiries related to defects in Class 2 buildings, and time taken for Fair Trading to close the complaints and enquiries it received between November 2018 and November 2021.

Figure 36: Total monthly complaints and enquiries received about Class 2 buildings and average monthly handling times, November 2018 – November 2021.

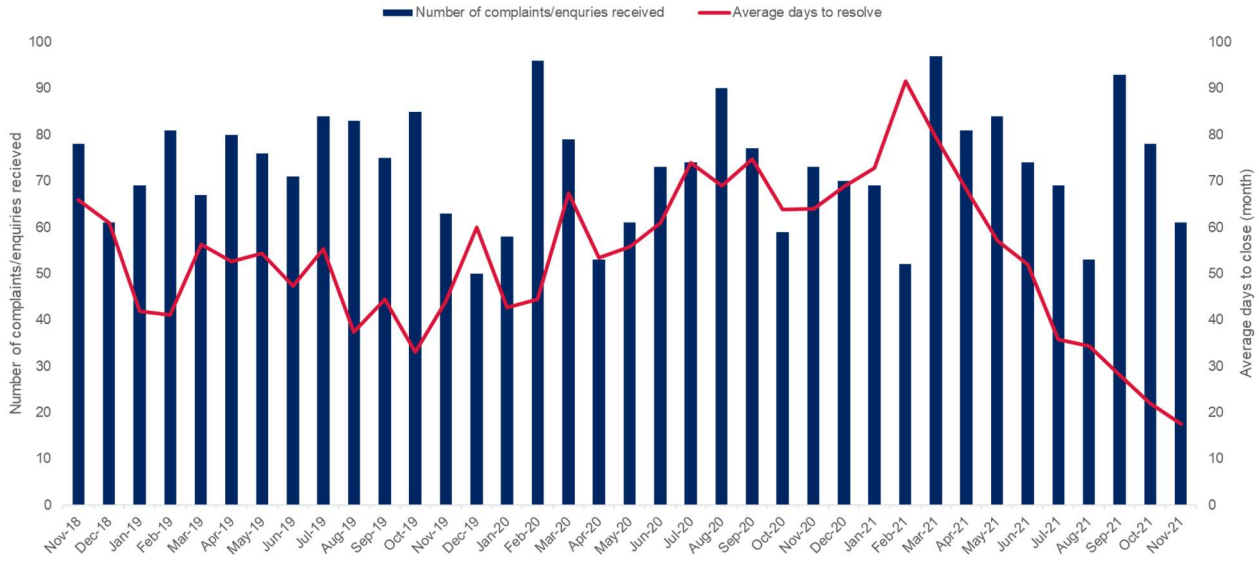


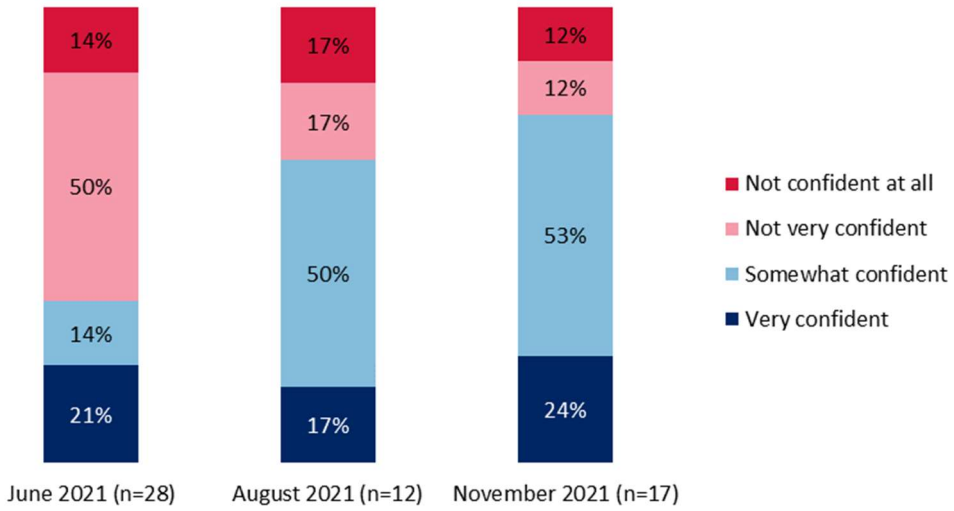
Figure 36 shows that, whilst complaints and enquiries relating to Class 2 buildings remained relatively steady of the analysis period, there has been a substantial decrease in average monthly handling times to close them since the beginning of 2021. This trend was observed for both complaints and enquiries.

Consultation with IRAS revealed the most plausible explanation for this result is due to the introduction of the triage model by IRAS to manage complaints and enquiries from consumers about Class 2 buildings. Under this model, complaints are now assessed and referred to appropriate areas within BRD for further action where required. Whilst this data is limited in its ability to demonstrate whether a positive outcome has been achieved for the consumer as a result of making the complaint/enquiry, it does show that Fair Trading are improving their ability to assess and appropriately action them.

This analysis is consistent with the results of the staff survey (Figure 37), which specifically asked IRAS staff about their confidence in managing complaints about Class 2 buildings.

[25] OBC and SCA. (2021). Serious defects in recently completed strata buildings across New South Wales. Retrieved from: https://www.nsw.gov.au/sites/default/files/2021-10/Serious_defects_in_residential_apartments_research_report.pdf

Figure 37: How confident are you in your ability to manage new types of construction complaints? (IRAS only)



In June 2021, only 35% of IRAS Staff felt somewhat or very confident in their ability to manage new types of construction complaints. However, the percentage of staff who were somewhat or very confident in managing new types of construction complaints increased considerably by August 2021 (67%) and increased again in November (77%). The percentage of staff who felt very confident in managing new types of construction complaints was small (less than 25%) in June, August and November 2021.

Whilst this analysis provides useful information changes to complaint handling practices within IRAS, the evaluation is unable to determine from it whether this reflects an increase in consumers' willingness to engage with Fair Trading on issues about Class 2 buildings. Further monitoring of the volumes of complaints and enquiries received may help to verify this outcome.

Collection of more robust consumer confidence evidence is underway.

Information about the current level of consumer confidence in the Class 2 residential industry is limited. In December 2021, the OBC commissioned market research to understand the drivers of consumer confidence and trust to purchase apartments, addressing an important gap in knowledge with regard to restoring confidence in the sector.

The research is expected to be completed by the end of April 2022, and will provide a useful baseline to measure consumer confidence in the industry going forward. The results of this baseline study should be considered by BRD and monitored over time to improve understanding about, and inform strategies toward, improving consumer confidence in the sector.

Recommendation 19: BRD should consider the results of the consumer confidence baseline study commissioned by the OBC to develop strategies that target current pain points for consumers of Class 2 residential buildings. Importantly, this area should be monitored over time to demonstrate progress.

Conclusion

Overview of key findings

Transition of the Construct NSW program of work to BRD.

Delivery of the Embedding Construct NSW program of work required a fundamental shift in regulatory practices, and was predicated on BRD functional streams having:

- sufficient staff awareness, capacity, and capability to operationalise the new requirements brought in by the DBP and RAB Acts
- access to appropriate systems, processes, and information to enable more proactive and collaborative regulation.

The evaluation found that BRD successfully adapted its staff capacity, capability, processes, and systems to operationalise and integrate the DBP and RAB Acts. It also found that BRD was able to overcome most implementation challenges that arose over the course of program delivery. Whilst substantial progress has been made, the evaluation has found that further rollout of the Construct NSW program would benefit from the OBC and BRD functional streams having defined roles, along with BRD having a clear long term vision and objectives for the program, supported by clear and measurable targets. With regard to systems, a key lesson learned for future projects is that intended users should ultimately be accountable for their design and approval to ensure they are fit for purpose. Further work may also be needed to improve the digital maturity in some areas of BRD to fully utilise the systems established and improve its regulation of the Class 2 residential construction industry.

With the DBP and RAB Acts on their way to being successfully embedded within BRD, focus now should be turned to transitioning the remaining elements of the Construct NSW strategy. As a priority, both internal and external stakeholders identified the establishment of DLI and its the ICIRT ratings system as a key component to ensuring appropriate consumer protections to improve confidence in the industry and ease regulatory burden for government. However, in order to prioritise transition of the remaining elements of the Construct NSW strategy, further clarification about the purpose and objectives of Construct NSW is required within BRD, including ensuring BRD executives are accountable for its ongoing success.

Extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices.

Critical to the success of the Embedding Construct NSW program was creating an internal cultural shift from siloed regulators to operating as ‘one BRD’ with the customer at the centre, backed by united strategic and executive leadership. Whilst the transition toward BRD being a more proactive and modern regulator is difficult to measure, consultation with internal stakeholders highlighted that key early indicators of success may include:

- improved access to and use of data to proactively target and inspect high risk entities
- improved collaboration amongst BRD functional streams and directorates to regulate the Class 2 residential building industry
- improved access to technical expertise to inform regulatory decisions

The evaluation observed that, whilst further improvement is needed, a transformation toward more collaborative and proactive regulation is occurring within BRD as a result of the Embedding Construct NSW program. This includes collaboration between BRD functional steams and directorates, but also between individual agencies responsible for regulating the industry. It was highlighted that having a better understanding of what different organisations do and how they can contribute to regulating will improve overall delivery of the regulatory model. Further, the evaluation found that continued transformation required a cultural and operational shift to maximising the use and efficiency of resources within BRD to ensure the regulatory framework is sustainable.

Awareness and capability of the residential apartment industry to meet the new requirements set out under the DBP and RAB Acts

The evaluation examined the impact of the Embedding Construct NSW program on design and building practitioners, including their awareness and capability of to operate under the regulatory model established by the DBP and RAB acts. The evaluation found that that the industry is generally supportive and capable to operating under the new regulatory framework. However, there is room to improve the user experience for online registration and compliance declaration systems to assist practitioners comply with the new requirements.

Early progress towards restoring confidence in the residential construction industry

Finally, the evaluation assessed whether there was evidence to suggest that confidence in the Class 2 residential construction industry was improving. The evaluation was not able to conclusively determine whether confidence in the Class 2 residential construction sector has improved as a result of the Embedding Construct NSW program. This is largely due to the recency of the reforms (and consequently the absence of robust outcome data), limited baseline information about the consumer experience of the reform agenda, and limited clarity on how confidence is defined and measured in the Class 2 residential sector.

Further monitoring of impacts in the sector, in particular consumer confidence, is critical for BRD to develop targeted strategies and demonstrate progress and overall success of the Embedding Construct NSW program.

Recommendations

A total of 19 recommendations were identified across 4 areas.

Table 13: Recommendations

Area	Recommendation
Transition of the Construct NSW program of work to BRD	Recommendation 1: Further rollout of the Construct NSW program should be supported by a timely and robust delivery plan which is communicated to all impacted functional streams and includes dedicated project management resources. Recommendation 2: The OBC and BRD functional streams should have clear and defined roles to deliver Construct NSW. This includes clarifying the long term vision and objectives for Construct NSW in BRD, supported by clear and measurable targets. Recommendation 3: BRD should ensure that intended users of new systems developed to support regulatory activities are accountable for approving their design to ensure they are fit for purpose; and, ensure existing systems intended to support further delivery of the Construct NSW regulatory model (such as AMANDA) are functional for both the customer and regulator. Recommendation 4: BRD should explore whether existing digital capability amongst BRD executives and staff is at an appropriate level to ensure that systems built to support the Construct NSW program are fully leveraged and deliver targeted interventions to uplift these skills where it is necessary. Recommendation 5: As part of transitioning responsibility for delivery of the Construct NSW program of work, the OBC and BRD should collaborate to develop a clear plan to hand over responsibility for external stakeholder engagement to ensure that direct and regular industry engagement is maintained. Recommendation 6: The OBC and BRD should work to identify and prioritise Construct NSW pillars not yet transitioned, including a clear pathway for how these initiatives would be practically implemented and what BRD streams would be responsible for their delivery. This plan should then be communicated to staff from impacted functional streams to improve awareness and ensure activities are adequately planned for and resourced. Recommendation 7: As part of the introduction of ICIRT and DLI, BRD should work with industry to ensure this form of market regulation does not disproportionately impact the industry, and consider the potential need for exclusion of small and medium sized businesses operating in the sector.

Area	Recommendation
Extent to which the Embedding Construct NSW program has contributed to improving BRD regulatory practices	Recommendation 8: BRD functional streams should review the results of the baseline collaboration recorded by the November 2021 staff survey and collectively agree on whether the level of collaboration they have with other teams is at an appropriate level. Recommendation 9: BRD should seek to recruit more specialised expertise into IRAS to respond to enquiries and complaints about defects in class 2 buildings; and CDR to carry out compliance activities required under the new regulatory framework.
Awareness and capability of the residential apartment industry to meet the new requirements set out under the DBP and RAB Acts	Recommendation 10: BRD should conduct post-implementation research to understand the extent to which awareness about the DBP Act has increased from baseline levels recorded in the OBC's building and design practitioners digital capability research, and to identify areas where low awareness of the reforms remains so that more targeted educational and awareness raising campaigns can be rolled out. Recommendation 11: BRD should continue to work with industry to clarify and refine (if/where required) the registration requirements for design practitioners, including developing more detailed guidance material about the practitioner classes they should apply for and the type and extent of documentation they need to provide to prove their credentials. Recommendation 12: To ensure practitioners are capable of complying with the declaration requirements established under the DBP Act, BRD should prioritise the rollout of the design audit function to ensure that the quality of lodged declarations complies with the requirements of the DBP Act. Recommendation 13: BRD and DPE should work together to improve the user experience of the ePlanning portal to allow practitioners to lodge compliance declarations with greater ease. Recommendation 14: BRD should investigate the systems needs of OC Auditors and either explore options to either adapt or leverage current systems available to ensure they are fit for purpose, or establish a new record keeping / audit system to more effectively support RAB Act activities. Recommendation 15: In partnership with industry, BRD should work to actively monitor the unintended impacts of the reform agenda, including as a priority: • the extent and drivers of design and construction costs for Class 2 buildings for practitioners and end consumers • the movement of practitioners from Class 2 sector to other classes of buildings • the supply of labour to Class 2 buildings.

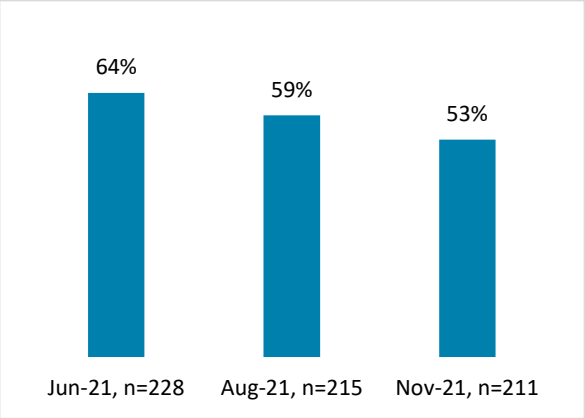
Area	Recommendation
Early progress towards restoring confidence in the residential construction industry	Recommendation 16: In partnership with the OBC and industry, BRD should work to define and develop a measurement framework around confidence in the Class 2 residential sector to enable transparent monitoring of this outcome. Recommendation 17: Continue to engage industry with serious defect data collected by the OC Audit program to understand the reasons why serious defects remain in audited Class 2 buildings and co-develop an action plan to further reduce their incidence rate. Recommendation 18: In partnership with industry, the OBC and BRD should continue to provide balanced communication to the broader public on progress made to date in delivering the Construct NSW reform agenda based on robust and transparent performance information available. Recommendation 19: BRD should consider the results of the consumer confidence baseline study commissioned by the OBC to develop strategies that target current pain points for consumers of Class 2 residential buildings. Importantly, this area should be monitored over time to demonstrate progress.

Staff survey

Participation

Participation in the staff survey was relatively strong across all three iterations. The average response rate across all three surveys was 59%. Participation was highest in the first survey (64%) distributed in June 2021 (Figure 38). There was a small drop off (between 5-6 percentage points) with each subsequent survey. Feedback received during the distribution period for Survey 3 suggested that some staff were not aware that there were three separate surveys which may have contributed to the small decrease in participation from survey 1 (June) to survey 2 (August), and survey 2 to survey 3 (November).

Figure 38. Staff survey response rate



Participation across most teams was above 50% for all three iterations of the staff survey, except for Investigations and Enforcement that dropped to a 49% response rate for survey 2 and 44% for survey 3 (Figure 39).

Figure 39. Staff survey participation, by team

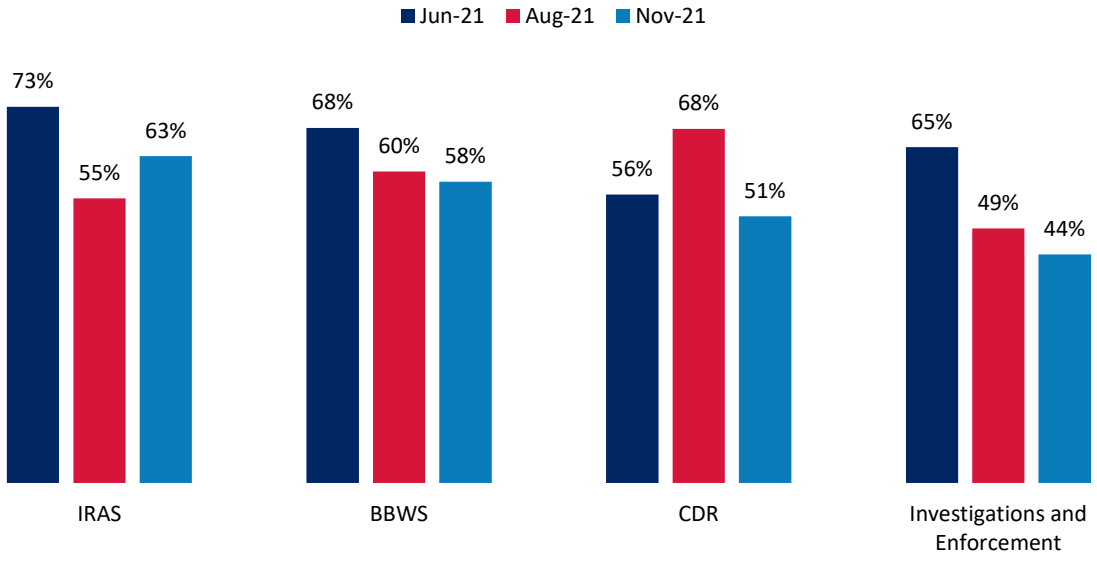


Table 14. Staff survey response rates by functional stream and directorate

	Survey 1			Survey 2			Survey 3		
Directorate	Responses	Invitees	Response rate	Responses	Invitees	Response rate	Responses	Invitees	Response rate
Licensing & Funds	39	58	67%	42	70	60%	36	72	50%
BBWS	39	58	67%	42	70	60%	36	72	50%
CDR	35	62	56%	43	62	69%	37	62	60%
Consumer Building & Property	35	62	56%	43	62	69%	37	62	60%
Investigations and Enforcement	44	68	65%	25	51	49%	22	50	44%
Data, Intelligence & Analytics	11	19	58%	6	12	50%	8	11	73%
Disciplinary Action Unit	10	11	91%	7	10	70%	3	10	30%
Investigations, Intervention and Review	19	32	59%	10	24	42%	8	24	33%
Investigations and Operations	4	6	67%	2	5	40%	3	5	60%
Community Engagement	29	40	73%	17	31	55%	17	27	63%
IRAS	29	40	73%	17	31	55%	17	27	63%
Total	**147**	**228**	**64%**	**127**	**214**	**59%**	**112**	**211**	**53%**

Question	Sub-question	Options	Survey 1	Survey 2	Survey 3
Have you received some communication about any of the following?	Design and Building Practitioners Act (DBP), Residential Building Act (RAB Act), Construct NSW strategy, Embedding Construct NSW program	Yes, no	✓	✓	
Where are you getting the information?		Team leader/ Manager, Director, Executive Director, Deputy Secretary, BRD Change team, Yammer, Construct NSW website, Fair Trading website, Facebook, LinkedIn, Other (please specify)	✓	✓	
How much do you agree or disagree with the following statements about your awareness of how the key aspects of Embedding Construct NSW will affect your role?	I am aware of how the DBP Act will affect my role	Disagree, Somewhat disagree, Somewhat agree, Agree, Not applicable	✓	✓	
How much do you agree or disagree with the following statements about your awareness of how the key aspects of Embedding Construct NSW will affect your role?	I am aware of how the RAB Act will affect my role	Disagree, Somewhat disagree, Somewhat agree, Agree, Not applicable	✓	✓	
How much do you agree or disagree with the following statements about your awareness of how the key aspects of Embedding Construct NSW will affect your role?	I am aware of how the Embedding Construct NSW program will affect my role	Disagree, Somewhat disagree, Somewhat agree, Agree, Not applicable	✓	✓	

How much do you agree or disagree with the following statements about the level of communication you've received about the key aspects of Embedding Construct NSW?	I have received enough information about the DBP Act	Disagree, Somewhat disagree, Somewhat agree, Agree, Not applicable	✓	✓	
How much do you agree or disagree with the following statements about the level of communication you've received about the key aspects of Embedding Construct NSW?	I have received enough information about the RAB Act	Disagree, Somewhat disagree, Somewhat agree, Agree, Not applicable	✓	✓	
How much do you agree or disagree with the following statements about the level of communication you've received about the key aspects of Embedding Construct NSW?	I have received enough information about the Embedding Construct NSW program	Disagree, Somewhat disagree, Somewhat agree, Agree, Not applicable	✓	✓	
What do you need to know more about to understand how the changes will impact your role?			✓	✓	
[IRAS only] How confident are you in your ability to manage new types of construction complaints?		Not confident at all, Not very confident, Somewhat confident, Very confident, Not applicable to my role	✓	✓	✓
[BBWS only] How confident are you in your ability to assess design and building practitioners registration applications?		Not confident at all, Not very confident, Somewhat confident, Very confident, Not applicable to my role	✓	✓	✓
How clear are the new processes to you?		Not clear at all, Not very clear, Somewhat clear, Very clear, Not applicable to my role	✓	✓	✓

How often have you been using the following tools since they've been available to your team?	[all teams except BBWS] Single View of Building	Haven't heard of it, Never, Rarely (once a month), Sometimes (at least once a week), Often (most days), Frequently (every day)	✓	✓	✓
How often have you been using the following tools since they've been available to your team?	[all teams except BBWS] Single View of Customer		✓	✓	✓
How often have you been using the following tools since they've been available to your team?	[IRAS Home Building] Risk matrix		✓	✓	✓
How often have you been using the following tools since they've been available to your team?	[CDR only] ePlanning portal		✓	✓	✓
How often have you been using the following tools since they've been available to your team?	[BBWS, Investigations & Enforcement and IRAS] AMANDA			✓	✓
[If used Single View of Building] How often have you used Single View of Building in the last 30 days?		Not at all, Rarely (once or twice), Sometimes (at least once a week), Often (most days), Frequently (every day)			✓
[If used Single View of Building] How would you assess the usefulness of the Single View of Building to your work?		Not at all useful, Not very useful, Somewhat useful, Very useful	✓	✓	✓
[If used Single View of Building] Please provide an example of how you're using this tool.			✓	✓	✓
[If used Single View of Building] What features of Single View of Building have you found useful?					✓

[If used Single View of Building] What limitations did you find with Single View of Building?					✓
[If never used Single View of Building] Why are you not using Single View of Building?					✓
[If used Single View of Customer] How often have you used Single View of Customer in the last 30 days?		Not at all, Rarely (once or twice), Sometimes (at least once a week), Often (most days), Frequently (every day)			✓
[If used Single View of Customer] How would you assess the usefulness of the Single View of Customer to your work?		Not at all useful, Not very useful, Somewhat useful, Very useful	✓	✓	✓
[If used Single View of Customer] Please provide an example of how you're using this tool.			✓	✓	✓
[If used Single View of Customer] What features of Single View of Customer have you found useful?					✓
[If used Single View of Customer] What limitations did you find with Single View of Customer?					✓
[If never used Single View of Customer] Why are you not using Single View of Customer?					✓
[If used the Risk Matrix] How would you assess the usefulness of the Risk Matrix to your work?		Not at all useful, Not very useful, Somewhat useful, Very useful	✓	✓	✓
[If used the Risk Matrix] Please provide an example of how you're using this tool.			✓	✓	✓

[If used the Risk Matrix] What features of the Risk Matrix have you found useful?					✓
[If used the Risk Matrix] What limitations did you find with the Risk Matrix?					✓
[If never used the Risk Matrix] Why are you not using the Risk Matrix?					✓
[If used ePlanning] How would you assess the usefulness of ePlanning to your work?		Not at all useful, Not very useful, Somewhat useful, Very useful	✓	✓	✓
[If used the ePlanning] Please provide an example of how you're using this tool.			✓	✓	✓
[If used ePlanning] What features of ePlanning have you found useful?					✓
[If used ePlanning] What limitations did you find with ePlanning?					✓
[If never used ePlanning] Why are you not using ePlanning?					✓
[If used AMANDA] How would you assess the usefulness of AMANDA to your work?		Not at all useful, Not very useful, Somewhat useful, Very useful		✓	✓
[If used the AMANDA] Please provide an example of how you're using this tool.				✓	✓
[If used AMANDA] What features of AMANDA have you found useful?					✓

[If used AMANDA] What limitations did you find with AMANDA?					✓
[If never used AMANDA] Why are you not using AMANDA?					✓
How many systems are you using on a regular basis to do your work?		Between 1 and 3, Between 4 and 6, Between 7 and 10, More than 10	✓		
Can you please list those systems?		CAS, WSMS, GLS, Single View of Building - Qlik, Single View of Customer - Qlik, ePlanning, Other(s) (please specify)	✓		
How much time are you currently spending in a typical day to access data to inform your work across those systems?		Less than 1 hour a day, Between 1 and 3 hours a day, Between 3 and 5 hours a day, Between 5 and 7 hours a day	✓		✓
How easy would you say it is to access the data you need to do your work?		Difficult, Somewhat difficult, Somewhat easy, Easy, Not applicable to my role	✓		✓
What would make it easier for you to access data?			✓		✓
How would you assess the quality of data accessed to support decisions relevant to your role?		Very low, Low, It depends, Good quality, High quality, Not applicable to my role		✓	✓
What kinds of data would you say are of low quality?				✓	✓
What kinds of data would you say are of good quality?				✓	✓

How often do you draw on particular expertise from another area of the organisation to do your work?		Rarely, Sometimes, Often, Almost always, Not applicable to my role		✓	✓
Please provide specific examples of how you are using the expertise of other areas to do you work.				✓	
How easy or difficult is it for you to access particular expertise from other areas of the organisation?		Difficult, Somewhat difficult, Somewhat easy, Easy, Not applicable to my role		✓	✓
What particular areas of expertise are you facing difficulties accessing?				✓	✓
What issues are you having when trying to access these particular areas of expertise?		I don't know where to go, The expertise is not available in the organisation, Other (please specify)		✓	✓
[All except IRAS] How would you rate your team's current level of cooperation with Community Engagement?		No awareness, Awareness, Communication, Coordination, Collaboration			✓
[All except BBWS] How would you rate your team's current level of cooperation with Licensing and Funds?		No awareness, Awareness, Communication, Coordination, Collaboration			✓
[All except CDR] How would you rate your team's current level of cooperation with Compliance and Dispute Resolution?		No awareness, Awareness, Communication, Coordination, Collaboration			✓

[All except Investigations and Enforcement] How would you rate your team's current level of cooperation with Investigations and Enforcement?		No awareness, Awareness, Communication, Coordination, Collaboration			✓
How would you rate your team's current level of cooperation with Policy and Strategy?		No awareness, Awareness, Communication, Coordination, Collaboration			✓
How would you rate your team's current level of cooperation with Business Operations, Performance & Assurance (BOPA)?		No awareness, Awareness, Communication, Coordination, Collaboration			✓

Industry survey

Participation

A total of 354 applicants have responded to the Industry Survey, representing 20% of all practitioners that had their applications assessed since the DBP Act came into effect in July 2021 to 30 November 2021.

Table 15. Industry Survey response rate, as of 4 November 2021

	n	%
Responses	354	20%
Contacts	1779	

Questions

Question	Sub-question	Options
Where did you get information about the Design and Building Practitioners registration scheme?		My organisation, My industry association, Fair Trading website, Service NSW website, LinkedIn, Other (please specify)
At the time of application, how clear were you on the following requirements for the new registration scheme as part of the Design and Building Practitioners Act and how it applied to you?	Whether I needed to register	Not clear at all, Not very clear, Somewhat clear, Very clear, Cannot comment
At the time of application, how clear were you on the following requirements for the new registration scheme as part of the Design and Building Practitioners Act and how it applied to you?	Whether I needed to complete any prior training	Not clear at all, Not very clear, Somewhat clear, Very clear, Cannot comment
At the time of application, how clear were you on the following requirements for the new registration scheme as part of the Design and Building Practitioners Act and how it applied to you?	The supporting documentation I needed to provide	Not clear at all, Not very clear, Somewhat clear, Very clear, Cannot comment
At the time of application, how clear were you on the following requirements for the new registration scheme as part of the	Whether I could make a compliance declaration	Not clear at all, Not very clear, Somewhat clear, Very clear, Cannot comment

Design and Building Practitioners Act and how it applied to you?	whilst my application was being assessed	
How clear are you now on the obligations attached to holding a deemed registration?	Declaration requirements	Not clear at all, Not very clear, Somewhat clear, Very clear, Cannot comment
How clear are you now on the obligations attached to holding a deemed registration?	Requirements for regulated designs	Not clear at all, Not very clear, Somewhat clear, Very clear, Cannot comment
What device(s) did you use to lodge your application?		Computer, Computer kiosk in a Service NSW centre, Mobile, Tablet
Did you contact us for further information or updates?		
At what stage did you contact us?		Before lodging my application, After lodging my application
How easy did you find it was to:	Navigate the Fair Trading website to find the information you needed *	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How easy did you find it was to:	Understand what information and documentation you needed to provide to register*	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How easy did you find it was to:	Complete the mandatory online learning modules	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How easy did you find it was to:	Get help if you had additional questions *	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How easy did you find it was to:	Submit the application online *	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How easy did you find it was to:	Make the payment for the registration *	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How easy did you find it was to:	Know where your application was up to*	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable

When contacting us for further information, how easy did you find it was to	Get through to someone who could answer your question	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
When contacting us for further information, how easy did you find it was to	Get clear answers to your questions	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
When being contacted for additional information, how easy did you find it was to	Understand what additional information or documentation was required*	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
When being contacted for additional information, how easy did you find it was to	Provide the additional information or documentation required*	Extremely difficult, Difficult, Neither difficult nor easy, Easy, Extremely easy, Cannot comment/ Not applicable
How satisfied are you with:	The outcome of your application *	Extremely dissatisfied, Dissatisfied, Neutral, Satisfied, Extremely satisfied, Cannot comment/ Not applicable
How satisfied are you with:	The time taken between when you lodged your application and being notified of the decision*	Extremely dissatisfied, Dissatisfied, Neutral, Satisfied, Extremely satisfied, Cannot comment/ Not applicable
How satisfied are you with:	The customer service provided *	Extremely dissatisfied, Dissatisfied, Neutral, Satisfied, Extremely satisfied, Cannot comment/ Not applicable
How satisfied are you with:	Explanations provided for how decisions regarding your outcome are reached*	Extremely dissatisfied, Dissatisfied, Neutral, Satisfied, Extremely satisfied, Cannot comment/ Not applicable
Please rate how much you agree with the following statements	I could complete my registration steps on the first attempt	Strongly disagree, Disagree, Agree, Strongly Agree, Cannot comment
Please rate how much you agree with the following statements	I know how to make a complaint about the service	Strongly disagree, Disagree, Agree, Strongly Agree, Cannot comment
Please rate how much you agree with the following statements	I know how to appeal the decision	Strongly disagree, Disagree, Agree, Strongly Agree, Cannot comment
Is there any other feedback you would like to provide about the registration process?		

Have you already lodged a declaration under the scheme?	[If Practitioner type = Design Practitioner OR Principal Design Practitioner] Design compliance declaration	
Have you already lodged a declaration under the scheme?	[If Practitioner type = Building Practitioner] Building compliance declaration	
How supportive are you of the overall changes introduced by the Design and Building Practitioners Act?		Strongly oppose, Somewhat opposed, Neutral, Somewhat favour, Strongly favour, Prefer not to say
What aspects are you particularly supportive of? And why?		
What aspects are you less supportive of? And why?		
Is there any other feedback you would like to provide about this new registration scheme?		

Interview guides

Internal stakeholders

Participants

Name	Function
Executive Director	Compliance, Disputes & Resolutions
Director	Investigations & Enforcement
Director	Compliance, Disputes & Resolutions
Director	Policy & Strategy
Director	Licensing & Funds
Director	IRAS
Director	CE Digital & Program Delivery
Director	Office of the Building Commissioner
Director	Compliance, Disputes & Resolutions
Director	Data, Intelligence & Analytics
Manager	Business Operations Performance & Assurance
Manager	Business Operations Performance & Assurance
Manager	OC Audit
Manager	IRAS
Manager	Licensing & Funds
Delivery Lead	Regulatory Capability
Senior Advisor	Change Team
Senior Advisor	Change Team
Coordinator	OC Audit

Questions

Topic	Question
Your role in the program	What has been your involvement in the program? When did you start getting involved? Are you still involved?

Topic	Question
Your role in the program	What is your understanding of the objectives of the program?
Program delivery	In terms of the way the project has been delivered overall, what components of the project do you feel worked well? And what could have been done better ?
Program delivery	How much of a change in your staff work practices have you seen as part of the Embedding Construct NSW program in recent months? Can you provide some examples?
Program delivery	More specifically, how much of a change have you seen in your staff skills in recent months?
Program delivery	How comfortable do you feel your staff are with the new processes that have been embedded as part of the program?
Program delivery	Are there any Construct NSW activities that have not yet been successfully embedded into BRD that will require project support?
Internal transformation and collaboration	Is the level of collaboration with other teams where you'd like it to be? If no, why not?
Internal transformation and collaboration	Do you have any examples/ evidence of cases where your team has engaged with other parts of the business to reach common outcomes?
Internal transformation and collaboration	In terms of use of intelligence, do you have any examples/ evidence of increased use of intelligence to inform your team's processes/ regulatory decisions?
Internal transformation and collaboration	Has your team captured information or provided access to data which has contributed to intelligence?
Internal transformation and collaboration	Do you have any examples/ evidence where your team has been consulted and where feedback was considered? At what stage?
Overall	If you had one thing to change in the way the program was delivered, what would that be?
Overall	Is there anything that you would NOT change? A particular aspect of the program that you feel worked particularly well and should be maintained or maybe even replicated in other projects?
Overall	Do you have any suggestions of how the delivery of future similar strategic programs, such as greenhouse programs, could learn from the Embedding Construct NSW program?

External stakeholders

Participants

Stakeholder Group	Organisation
Consumer	Owners Corporation Network
Consumer	Strata Community Association
Government	Department of Planning, Industry and Environment
Government	Local Government NSW
Industry	Australian Institute of Architects
Industry	Australian Institute of Architects
Industry	Australian Institute of Building
Industry	Australian Institute of Building Surveyors
Industry	Building Designers Association of Australia
Industry	Northrop Consulting Engineers
Industry	Engineers Australia
Industry	Housing Industry Association
Industry	Insurance Council Australia
Industry	Master Builders Association
Industry	Urban Development Institute of Australia NSW

Questions

Topic	Question
You and your organisation's involvement in the reforms	Can you please briefly introduce yourself and your role in your organisation?
You and your organisation's involvement in the reforms	What is your understanding of the initial rationale and intent of the changes introduced by those reforms?
You and your organisation's involvement in the reforms	How was your organisation involved in the design and implementation of the reforms affecting the construction industry in recent years, in particular the DBP and RAB Acts?
You and your organisation's involvement in the reforms	[Industry only] Did your organisation make changes to the way it promotes compliance amongst its members?

Topic	Question
Feedback on the implementation of the reforms	How has your organisation/ members responded to the reforms? Has there been a change in the response over time?
Feedback on the implementation of the reforms	[Industry only] How easy/ challenging was it for your members to adapt to the reforms?
Feedback on the implementation of the reforms	[Industry only] How have you found different parts of the industry (e.g. different types of designers or builders, different types of Class 2 projects) have adapted to the reforms? Did some find it easier/ more difficult than others?
Feedback on perceived changes in the industry	[Industry only] How would you describe your industry's awareness of compliance requirements?
Feedback on perceived changes in the industry	[Industry only] Have you observed any changes amongst your organisation's membership since the introduction of the reforms?
Feedback on perceived changes in the industry	Have you observed any impacts (positive or negative) of the reforms on the industry more broadly?
Feedback on perceived changes in the industry	Beyond the implementation of the DBP and RAB Acts, what other activities in the Construct NSW program of work have contributed to the impacts you've observed?
Feedback on perceived changes in the industry	Have you observed any changes in the level of confidence in the class 2 residential construction industry since the Construct NSW program of work commenced?
Overall	If you had one thing to change in the way your organisation was involved in these reforms, what would that be?
Overall	Any other comments or feedback you'd like to provide?