



## Chris Steel MLA

Treasurer

Minister for Planning and Sustainable Development

Minister for Heritage

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Member for Murrumbidgee

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Tom Duncan

Clerk

ACT Legislative Assembly

London Circuit

CANBERRA ACT 2601

By email: [Tom.Duncan@parliament.act.gov.au](mailto:Tom.Duncan@parliament.act.gov.au)

Dear Mr Duncan

### **Petition 008-25 – Fix the ACT's Broken Construction Approval System**

I refer to your letter of 18 March 2025 regarding Petition no. 008-25 (the petition), tabled by Mr Mark Parton MLA in the ACT Legislative Assembly on 18 March 2025 concerning approvals in the building and construction regulatory system.

An effective building and construction regulatory system is important for the health, safety, and wellbeing of our community. Confidence in the regulatory system is critical to the productivity and economic sustainability of the building and construction industry.

1. *Have genuine consultation with the ACT building industry to help mitigate the regulatory burden, streamline approval procedures, and restore confidence in the system.*

The ACT Government is committed to working together with the building and construction sector to identify improvements to building and construction processes, to support the delivery of more quality housing and developments in the ACT.

Consultation with industry is a key part of our regulatory reform program and processes. Most recently the ACT Government has undertaken extensive consultation in relation to the development of the new *Planning Act 2023*, and reform initiatives including swimming pool safety, the Property Developer and Regulation Scheme and the Professional Engineers Registration Scheme. Consultation

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on these reforms included a public consultation process and targeted stakeholder consultation with industry representatives such as the Housing Industry Association (HIA), Property Council (PCA) and Master Builders Association (MBA). Officials from the Environment, Planning and Sustainable Development Directorate (EPSDD) and myself, continue to meet with representatives from the sector outside of these reforms to discuss opportunities for improvement in the building and construction regulatory system.

There are a range of measures underway to help support efficiencies and productivity in the building and construction industry. Earlier this year, I announced that the ACT Government will be working with the construction sector on a new construction productivity agenda. This work aims to create a more efficient and effective planning and building system by looking at issues holistically. Industry's input to this process is vital to ensure the success of this work.

A key outcome is to develop a range of agreed practical measures to support our goal of enabling 30,000 new homes by 2030. The first meeting to begin to work with industry to consider reform proposals occurred on 15 April 2025 through the existing Planning and Construction Industry Chief Executive Reference Group (PACICERG). Representatives from EvoEnergy and Icon Water participated in these discussions.

As an outcome of this meeting, Reform Proposal Requests have been distributed to PACICERG members and representatives of the broader planning and construction sector as an opportunity for them to identify specific issues and provide suggested areas of reform to be considered by Government which may improve the approval pathway. I look forward to receiving industry's specific reform suggestions and progressing the outcomes of this work.

The ACT Government, in work being led by Minister Cheyne, also hosts a construction industry round table every six months where peak bodies and representatives have the opportunity to provide feedback on applications and regulatory processes related to the city and government services portfolio. At the roundtable on 25 March 2025 feedback was sought on the impact of the *Urban Forest Act 2023* and the *Public Unleased Land Act 2013*, which will inform the legislative reviews underway. Officials from the Environment, Planning and Sustainable Development Directorate (EPSDD) are working closely with colleagues in the Transport Canberra and City Services Directorate (TCCS) to identify opportunities to streamline processes, reduce regulatory burden and provide greater certainty to industry on the development outcomes which can be achieved. The next roundtable is anticipated to occur in September 2025.

The machinery of government changes happening this year will also support the streamlining of processes to effectively manage development approvals. The establishment of a new City and Environment Directorate will lead to better alignment of processes and service provision to industry groups. This includes a recommendation for the formation of a new Development Solutions branch which should be a front door for engagement with government on building and development matters and will manage a streamlined and coordinated process of entity referrals.

*2. Commit to no more changes to the National Construction Code, as its applied in the ACT for the next 5 years.*

The ACT Government intends to implement the National Construction Code (NCC) updates in-line with the current cycle. We will only consider implementing changes that benefit Canberrans. Pausing updates for the next five years to the buildings where people live, work and engage socially is not in the best interest of our community.

The Productivity Commission released a research report titled '[Housing construction productivity: Can we fix it](#)' in February this year. It affirms that the NCC is sound in-principle. The goal of the NCC is to enable the achievement of nationally consistent, minimum necessary requirements for safety and health, amenity and accessibility, and sustainability in the design, construction, performance and liveability of new buildings.

In 2016, the NCC cycle changed from annual updates to updates every three years, with the focus alternating between residential and commercial buildings. Changes to the NCC are subject to regulatory impact statements and undergo an extensive public consultation process. Further to this, the ACT undertakes targeted industry consultation on the updates to support implementation.

NCC 2022 contained some of the most significant changes since its inception, with a focus on increasing energy efficiency and liveable housing requirements for residential buildings. Home energy efficiency had not been increased since NCC 2010, and Canberrans are now benefitting from having more accessible and comfortable homes that have lower energy bills. NCC 2025 is focused on commercial buildings and will be introduced in the ACT at a date to be agreed by Australia's building ministers, achieving, as far as possible, national consistency. The ACT Government will ensure that there is sufficient industry lead-in time and education materials to prepare for any upcoming changes.

The ACT Government is considering the Productivity Commissioner's Report and its recommendations to support the development of the construction productivity agenda for the ACT. Working closely with industry, this work will identify specific, targeted and agreed reforms to inform future regulatory change with the aim of supporting supply and affordability of housing.

### *3. Allow licensed builders to certify pool fencing.*

The ACT Government is committed to avoiding deaths and serious injuries from drowning incidents in home swimming pools and spas in the ACT. The new swimming pool safety reforms require home swimming pools and spas in the ACT to have a safety barrier, such as a fence, which meets current standards from 1 May 2028.

To show compliance with the new rules, a compliance certificate needs to be obtained from an authorised person. An individual can apply to be an authorised person. The applicant must have the experience and skills to undertake the functions of the role and be a suitable person to undertake the functions of the role. Further information about this process and a list of current authorised persons is on the [ACT Government's Planning Website](#).

In addition, licensed building surveyors (certifiers) in the ACT are automatically deemed an authorised person as they currently certify that swimming pools or spas are built to the prescribed safety standards. A list of licensed certifiers can be found on the [Access Canberra public register](#).

A licensed builder may choose to apply to be an authorised person, and they would be assessed against the experience, skills and suitability requirements. It is important to note that self-certification would not be allowable. It would be inappropriate to allow individuals responsible for the construction to certify their own work. This would raise a range of ethical and conflict of interest concerns.

The ACT Government does not intend to automatically deem a licensed builder as an authorised person, as they do not currently certify swimming pools or spas. The ACT Government is not aware

of concerns with delays in this space, but welcomes any evidence the sector has to help inform the approach to implementing these reforms. If there is a shortage of authorised persons available for certification, the government may consider expanding the scope of practitioners qualified to certify barriers, where they were not involved in the construction of those barriers.

I will be looking into this issue in more detail as part of the productivity construction agenda and work in response to the Assembly Resolution of 18 March 2025 – Regulatory Burden in the Construction Industry. EPSDD is undertaking a review of the documentation of the new pool fencing standards to improve understanding of the new regulatory framework. The review will also look at the use of authorised persons and certifiers. I will table a ministerial statement on this review by the end of this year.

*4. Require referral entities for building and development approvals to provide timely advice on applications.*

This year I have heard that several elements of the planning and building systems are delaying construction works which is placing strain on the industry. I acknowledge overall timeframe for building and construction approvals needs to be carefully considered to identify specific reform opportunities to improve efficiency and timeliness. This is particularly important at a time of significant planning reform, and government commitments to deliver more housing and other significant development projects.

Under the *Planning Act 2023*, the Territory Planning Authority (the Authority) must refer a development application (DA) to mandatory entities. These mandatory entities differ depending on the nature and complexity of the proposal. The Authority will consider the advice and determine whether sufficient evidence has been provided with the application or whether further information is required. It is at the discretion of the Authority whether any matters raised can be addressed or conditioned as part of the statutory decision-making process. The Authority endeavours to progress an application where appropriate.

As part of the Assembly Resolution of 18 March 2025 – Regulatory Burden in the Construction Industry, the ACT Government is undertaking an internal review of referral entities to address delays in providing decisions on building approvals and DAs. I will report back to the Assembly on this review by the end of the calendar year. As mentioned earlier, I have also invited referral entities to be a part of the productivity construction agenda work so that we can work together with industry to improve our systems.

As noted above, the formation of a new City and Environment Directorate with a new Development Solutions branch will allow for improved service provision to industry on building and development matters and will manage a streamlined and coordinated process of entity referrals.

*5. Automatically approve building and development applications that are not decided within statutory timeframes.*

Building approvals are issued by licensed building certifiers under the *Building Act 2004*. There are no statutory timeframes for the building certifier to issue a building approval upon application from the owner, and the certifier must not issue a building approval if the application is in contravention of the *Building Act 2004*. The ACT Government is not aware of concerns with delays in the issuing of building approvals by building certifiers. The ACT Government understands that the private certification industry currently has capacity to certify buildings in a timely manner.

Within the DA process, there are mechanisms for the timing of a decision. Section 193 of the *Planning Act 2023* outlines that if a DA is not decided within time, then the decision-maker is taken to have decided to refuse the application. This provision provides an option for the applicant to appeal the deemed refusal through the ACT Civil and Administrative Tribunal (ACAT). However, if an appeal is not made, the decision maker is still able to approve or conditionally approve the application. That said, the Authority endeavours to make a decision within these timeframes and has a target of deciding 75% of all DAs within the set period.

Most DAs that fall outside the timeframes are complex and usually include several issues that take time to resolve. Having these automatically approved if not decided within the statutory timeframe would not result in good planning and development outcomes for the Canberra community. It is more appropriate for the Authority to consider each issue and determine how to progress the application. I welcome an open dialogue with industry to see what we can do collectively to improve the DA process.

The ACT Government is undertaking an internal review of the assessment of DAs, as part of the Assembly Resolution of 18 March 2025 – Regulatory Burden in the Construction Industry. This review will also look at exemption declarations and staffing requirements in the DA processing team to identify additional streamlining changes to meet its performance targets on the processing of development applications and exemption declarations. I will report back to the Assembly on this matter by the end of the calendar year.

I look forward to working with the industry to ensure that our systems and the entities that are involved in them are delivering efficient outcomes that support the productivity of the construction sector. It is equally important to ensure that, in the process of improving regulation, safety and quality are not compromised.

I trust this information is of assistance and provides advice on issues raised in the petition.

Yours sincerely



Chris Steel MLA  
Minister for Planning and Sustainable Development  
3 June 2025