



The ACT building certification system

Authorisation

- Building surveyors are licensed under the *Construction Occupations (Licensing) Act 2004*
- Two main licence categories – principal and general
- “Government certifier” categories are for certifiers of last resort – not government employees
- Only licensed building surveyors can be appointed as building certifiers for building work, but...
- Cannot be appointed if they have a conflict of interest under the Building Act, including a financial or personal interest in the property or having provided design work for the approval application.

Building approvals

- The owner of land where the building work will be carried out is responsible for appointing and paying for the certifier.
- The owner can allow an agent to appoint and deal directly with the certifier.
- A building approval application can only be considered by the appointed building certifier.
- If the proposed work complies, the building certifier issues the approval.
- For licensable work, the builder must then apply for, and be granted a commencement notice, before starting the building work under the approval.

Stage inspections

- For houses, townhouses and non-habitable buildings the compulsory inspections are described in the Act.
- For multi-residential and non-residential:
 - compulsory stage inspections
 - certifier may also require additional structural inspections
- Carried out by the building certifier.
- Inspection reports provided to the Registrar.
- Final inspection must also come with a recommendation relating to fitness to occupy.
- The certifier does not issue the certificate of occupancy.

Certifier role and functions

- Outlined in new section 11A of the Act.
- Certifier regulates on behalf of the government – they do not act for the developer, builder or owner.
- Responsible for checking compliance of the approved building work with the Building Act.
- Must notify the Registrar about contraventions or suspected contraventions of the Building Act.
- Must tell the Planning and Land Authority if they suspect there is non-compliant site work but do not have powers to inspect for general compliance with other laws.
- Do not have random inspection or enforcement powers, but may issue stop notices if appropriate.



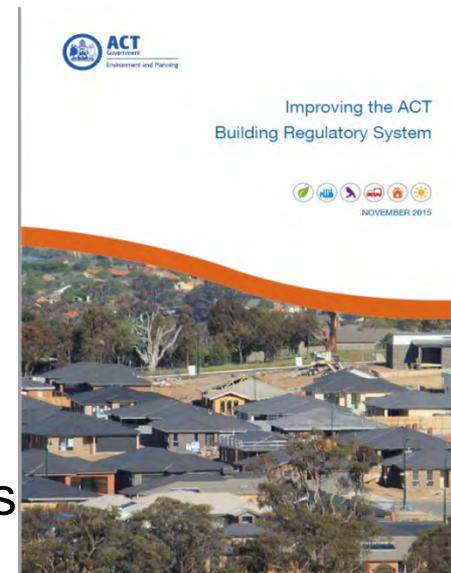
Building Regulatory Reform Process

Building regulatory reforms

- EPSDD review of the ACT building regulatory system found the building regulatory system needed reform to be effective and relevant for industry and the community.
- Reforms over the course of the review include:
 - three amendment Acts over 2013 and 2014, which introduced:
 - a model for skills assessments and ‘directed training’
 - revised offences and penalties for major breaches of the Building Act and rectification orders
 - changes to licensing powers
 - creating a public register of information about licensees
 - new consumer building guides
 - increased focus on on-site audits and inspections
 - improved verification of builder licence applicants’ experience

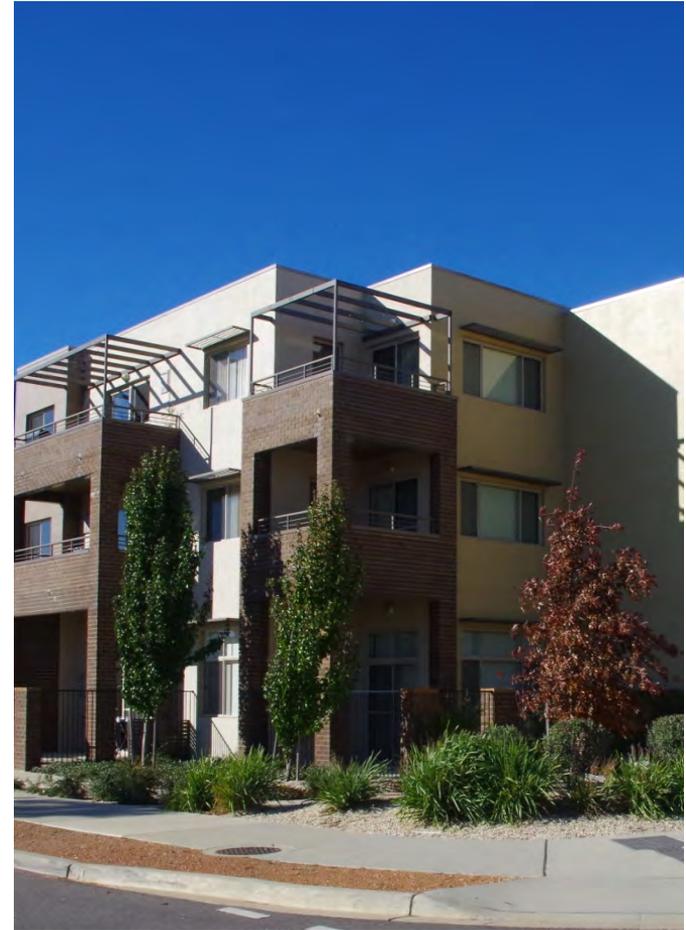
Current phase

- Nov 2015 – Feb 2016 consultation on *Improving the ACT Building Regulatory System* discussion paper.
- Paper included options and proposals relating to Minister's priority areas for compliance of residential buildings with the Building Act, across:
 - Design and documentation
 - Stage inspections and onsite supervision
 - Builders and building surveyors licensing
 - Contracts
 - Management of project payments
 - Alternative dispute resolution for residential buildings
- Also included options related to security of payments.



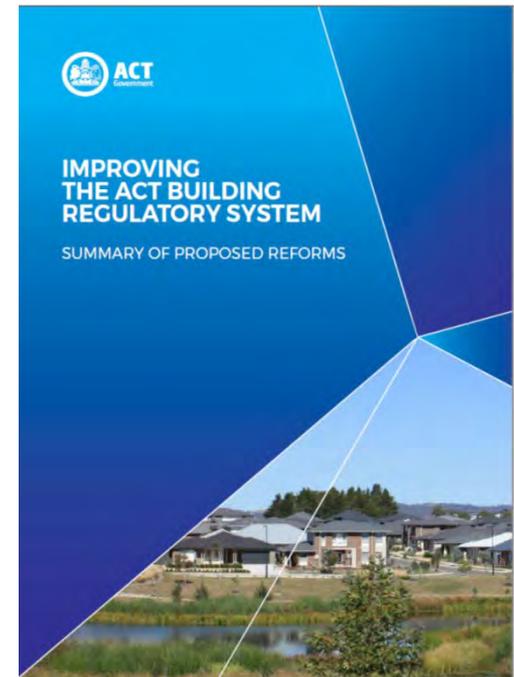
Consultation

- 99 submissions – 32 written, 67 survey responses.
- Responses supportive of improving the system – in particular, documentation, supervision and inspections.
- General support for better management of retentions, payments and dispute resolution – more diverse views on how this could be achieved.



Building regulatory reform program

- Announced 8 June 2016.
- Includes 43 actions to the end of 2017-18 based on the areas covered in the discussion paper.
- Add to reforms already implemented or in progress under the Review.
- Reforms aim to:
 - make the building regulatory system more effective and relevant.
 - prevent non-compliance, defects and disputes and improve practices.
- Supported by education and information.



Building regulatory reform program

- Priority reforms target fundamental aspects of the building regulatory system and include:
 - Establishing expectations for minimum standards of practice.
 - Building technical, supervisory and administrative capacity in the industry and regulatory authority.
 - Improving oversight and verification of compliance of designs and building work with relevant codes and standards.
 - Educating all parties involved in construction about their rights and obligations.

Building regulatory reform program

- Each reform has an implementation pathway – many of which include further consultation.
- The program also specifically includes consultation on:
 - the security of payments system in the ACT.
 - new dispute resolution processes
 - a range of issues considered under the review and raised by stakeholders including broader licensing issues, insurance, contracting and accountability of practitioners for their work.
- The full list is of reforms and actions is available online at http://www.planning.act.gov.au/topics/current_projects

Building and Construction Legislation Amendment Act 2016 (1)

- Passed Legislative Assembly August 2016.
- Has two aspects:
 - Enabling implementation of short-term reforms
 - Improving the operation of existing provisions
- 12 of the 29 priority actions rely in part, or in full, on amendments in the Bill.
- Major reforms include expansion of statutory warranties to all private residential buildings (more later) and new heads of power in relation to residential building work contracts.



Australian Capital Territory

Building and Construction Legislation
Amendment Act 2016

A2016-44

Building and Construction Legislation Amendment Act 2016 (2)

Other amendments:

- allow the Registrar and ACAT to consider the history of relevant directors, partners and nominees in licensing and disciplinary decisions
- introduce new reporting requirements for licensees when they may no longer be eligible to hold a licence (more later)
- increase the range of actions that can be taken when a licensee is no longer eligible for a licence
- allow the ACAT to impose a payment of a maximum \$20,000 for an individual and \$100,000 for a corporation in an occupational discipline order (increased from \$1,000 and \$5,000), if appropriate.

Next reform priorities

- Codes of practice for builders and building certifiers.
- Minimum documentation for building approval application guidelines.
- Training program for licensed building surveyors.
- Examinations for Class A and B builder applicants.
- Amendments to support commencement of statutory warranties for medium-high rise residential.