CALL TO ACTION

A JOINT INDUSTRY SUBMISSION TO THE ACT GOVERNMENT FOR REGULATORY AND PROCESS REFORM IN THE BEST INTERESTS OF CANBERRA

FEBRUARY 2014
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INTRODUCTION

This is a joint submission from the Canberra Business Council (CBC), Consult Australia, the Master Builders Association of the ACT (MBA-ACT), the Planning Institute of Australia (PIA) and the Property Council of Australia (Property Council). Together, our members represent more than 5,000 businesses across the region, and across the entire property and property and construction sector. We have a long term commitment and interest in the future of Canberra.

Industry is united by a common thread of confidence in the attributes of Canberra and the region, in the quality of our lifestyle and in wanting to secure a bright future for the city and our community.

Collectively, we believe Canberra has the potential to enhance its international status as a world-class city and to increase its profile in liveability indices. In the Property Council’s My City survey, Canberra is already ranked the second most liveable city in Australia – a place that is characterised by residents as being well maintained, safe, unpolluted and with minimal traffic.

A strong business environment together with a robust property and construction industry will grow and diversify the ACT economy and provide the necessary resilience to weather volatile market conditions as well as Federal Government decisions such as reductions in public service numbers. Positive action from the ACT Government to encourage and support investment will enable our industries to capitalise fully on the multitude of opportunities inherent in our city and to transform Canberra into a place where people choose to live, work, visit and play.

Industry recognises the positive work of the ACT Government in recent years in this arena. We have supported and provided detailed comment on most government industry initiatives including draft planning and policy proposals and towards the framing of the annual budget. Our members have collectively and generously volunteered their time, experience, expertise and enthusiasm to many government advisory groups and committees.

However, we are concerned that many of our comments remain unheeded and that change is not happening quickly enough. There is a very real potential for the business and development industries to descend into a sustained downturn, the flow-on effects of which will have detrimental implications for the ACT economy. The risk of a significant downturn is being exacerbated by regulatory and other policy settings including escalating levels of red tape and a tax environment that discourages much needed investment and fair competition.

The non-government sector (and not just the two governments) has a vital role to play in our city. Without a healthy and vibrant non-government sector the city will stagnate and regress.
A COMMON VOICE

Industry is collectively committed to continuing to work with the ACT Government to ensure we have a business environment that supports innovation, economic growth, diversity and prosperity.

We believe that government has a significant role in creating the right policy environment for productivity and prosperity to flourish.

This submission sets out the broad policy settings – positive drivers and active enablers – that we consider are essential to achieving Canberra’s full potential while future-proofing the economy. The paper outlines a broad ‘Business Agenda’ as well as the ‘Property Investor/Builder Journey’ – highlighting longstanding issues that require urgent attention. Our key messages include calling for:

- an investment environment which is positive and progressive;
- a fiscal framework that diversifies revenue, caters for a positive tax mix, facilitates investment and supports essential and new services;
- strategic city planning that is articulated through a shared vision, is integrated with broader productivity objectives and drives public urban infrastructure;
- a land acquisition and release program that is rational and underpins property development and construction, community need and demographic demand;
- a productive public sector which efficiently delivers quality services;
- zero tolerance to unnecessary and burdensome red tape;
- a logical and practical regulatory framework to assure best practice; and
- an educated capable workforce with the right skills and experience to match an enterprising economy.

Fundamental to good outcomes is making sure that government’s policy settings are correct and have buy-in from key industry and community groups.

Industry has prepared this submission to assist the ACT Government to implement its vision for Canberra and the Territory. Our intention is to advance the dialogue with the ACT Government, to highlight the issues currently impacting on our industries to prevent us from achieving the Government’s vision, and to provide targeted recommendations.

Government can only establish the right policy settings if the bureaucracy moves away from internalised policymaking with fait accompli presentation masked as consultation and towards effective communication, engagement and partnership.

It’s time for a new climate of collaboration and focus between industry and government. We need real solutions to our current challenges. Industry offers our comments and recommendations in this context. We are looking ahead with optimism, and are willing and ready to roll up our sleeves to establish a partnership approach towards policy setting for investment and jobs in Canberra.
1. THE BUSINESS AGENDA: INVEST, DIVERSIFY, GROW, PROSPER

1.1 STATE OF PLAY

By most measures, the ACT economy has performed well over the last few years.

According to the Australian Government report, State of Australian Cities 2013, the Canberra-Queanbeyan productivity base is relatively stable. Our growth rate between 2006 and 2011 (9.6 per cent) is double that of the previous five years (4.4 per cent) with inward domestic migration and a high birth rate as contributing factors. Our population continues to age with 10 per cent over 65 years in 2011 (a little less than the national average of 13.3 per cent). As for most Australian cities, the warning signals are flashing with the over-65 population projected to more than double by 2056. On the positive side, we have a significantly higher proportion of women in full-time employment (63 per cent) than the national average (53 per cent) and a slightly higher than national average of men in full-time employment.

Our population continues to have the highest number of people with tertiary qualifications and we have the highest median household income of all major cities. Our employment base has the highest proportion of people in public administration. Along with all the state capitals in the survey, the employment share declined in retail, professional services and real estate services (although by proportion we remain the highest in the latter two). Of significance, Canberra-Queanbeyan was ranked second of eleven Australian cities in the Property Council of Australia’s My City liveability survey. Well-being and quality of life are attributes of our city lifestyle of which we can be proud.

Yet there are dark clouds descending on our city and we do not want to be left behind by the growth and opportunities that are appearing in other cities. The latest CommSec State of the States report (released January 2014) indicates that although the ACT has been performing well in dwelling starts, real wages and population growth our economic growth is the second weakest in Australia. The annual growth rate in construction work was also down (16.4 per cent below the decade average). The report states that the ACT’s main weakness has been ‘a loss of momentum in terms of business investment’.

The recently released Deloitte Access Economics Business Outlook report (December 2013) predicts a ‘modest’ next couple of years in Canberra. The report states that low interest rates are not encouraging an increase in residential construction. “Housing finance is falling, building approvals are doing the same, vacancy rates are continuing to climb, while housing prices are heading down rather than up. Not surprisingly, therefore, housing construction activity is already sliding,” the report says. Job vacancies following public sector job cuts under the previous government’s efficiency dividends are at record lows and business investment spending is ‘on the slide’. The report suggests that the number of jobs at risk in the ACT from public service jobs cuts is comparable to twice the risk resulting from the closure of Holden manufacturing in South Australia.

It is clear that the ACT must diversity its economy so that it does not rely so heavily on the public sector, on land sales or on property taxes. However, we must also acknowledge that the property and property and construction sector is a lynchpin of the ACT economy and requires a whole-of-government approach to ensure it not only survives, but thrives.
1.2 A NEW ‘SMARTER’ FOCUS

The State of Australian Cities report notes that ‘Australia’s major cities have experienced significant increases in their knowledge economies, that is, use of knowledge technologies to produce jobs and economic benefits. As a result, there has been a large increase in the number of knowledge-intensive jobs that require significant expertise, intellectual effort and innovation … while knowledge-intensive jobs account for a small proportion of the total number of jobs in major cities, they are important for productivity and national prosperity in that they increase employment and salaries and create additional jobs in areas nearby’.

Canberra has always been strong in such industries and we need to make sure that we are competitive and assertive in extending and enhancing our lead. However, we note from the latest Property Council of Australia – ANZ Property Industry Confidence Survey the ACT continues to have the lowest investment sentiment of any mainland state or territory.

The State of Australian Cities report also notes that, of the major cities, Canberra – Queanbeyan ‘experienced the strongest shift in employment towards the public administration and safety sector between 2001 and 2011’. The report cites research that, for each new knowledge-intensive job, five more jobs in other sectors are created.

Clearly, we want and need to retain this vital underpinning of our business base – a productivity ‘edge’ that is intrinsic to the role of Canberra as the nation’s capital city. However, it is critical that decisive and swift action be taken to attract and grow investment in private sector business particularly in our areas of strength and capability, that is, in businesses which are professional, knowledge-intensive and high-skills based.

Industry welcomes the ACT Government Business Development Strategy to foster the right business environment, support business investment and accelerate business innovation. We strongly support the overall goal of the Strategy to grow and diversify jobs. We also appreciate the tactics of integrating the strategy with other key ACT Government target areas including housing affordability, land release, arts and sports programs, and tourism and city brand campaigns.

The 2013 Business Development Strategy implementation report is a good tool for tracking achievements and tackling priorities and should be used to identify the next tranche of actions – this continuous engagement and review will be the key to securing prosperity.

1.3 REFORM THE REGULATORY FRAMEWORK

The ACT regulatory environment requires urgent review to ensure that existing regulations are achieving policy goals and new regulations are the most effective way of delivering a policy outcome.

Industry advocates for urgent regulatory change to remove the red tape and duplication that is creating an escalating burden on the business community in general and on the building, construction and property sectors in particular. We believe the ACT regulatory framework is discouraging business growth and expansion in Canberra and is contrary to the overall intent of regulatory intervention and of the National Competition Policy.

We urge the ACT Government to ensure proposed regulation is both the minimum intervention necessary to achieve objectives and the most effective method of addressing a policy issue. The aim of regulation should be to achieve demonstrable community benefit and national consistency and harmonisation including the reduction of compliance costs to businesses operating across jurisdictions.
Administering the regulatory burden also comes at a cost to the ACT Government, often for little gain. The fact that inefficient processes have existed in the past is no justification for continuing them in the future.

1.3.1 REGULATORY IMPACT STATEMENTS (RIS)

**ISSUE**
The regulatory environment requires urgent review to ensure existing regulations are achieving policy goals and new regulations are the most efficient means of addressing a policy issue.

There is an urgent need for Regulatory Impact Assessments to be undertaken in a professional and consistent quality environment through a central oversight body.

**RECOMMENDATION**
The ACT Government should develop an improved process for Regulatory Impact Statements (RIS) that can be applied to all legislation to ensure quality and consistency:

- All new regulation policy (and quasi policy including for planning) should be subject to a RIS and these should be prepared by a central agency with appropriately skilled staff.
- The RIS should require rigorous cost-benefit analysis be applied with adequate time for public consultation.
- Sunset clauses on regulations and the introduction of a one-in-one-out rule should also be considered to ensure zero regulatory creep and no increased burden on business and industry.

This will ensure that any new regulation is actually needed and, if so, that it is not onerous and does not impede growth and prosperity.

1.3.2 RED TAPE

**ISSUE**
In recent years, the volume of ACT Government regulation and red tape has grown at an increasing rate. This has created an escalating burden on all sectors of industry.

Reducing red tape is essential if the ACT is to thrive as a business-friendly jurisdiction.

Both the volume of regulation and the complexity of meeting the compliance demands – with no or little evidence of benefit – is stifling investment and industry growth and expansion in Canberra.

We need a whole-of-government approach to red tape reduction. The current demonstrable trend of one arm of government reducing red tape while another introduces new unwarranted regulation which places a further burden on industry must cease. Streamlining and coordination of government administrative processes is urgently required to avoid the reams of red tape and duplication of requirements hindering our business, building, construction and development industries.

**RECOMMENDATION**
The ACT Government should take a zero tolerance position to red tape, remove regulation that promulgates poor practice and/or is outmoded and put in place a positive program of policies and education to deliver the desired government outcomes and encourage investment.

In particular, the ACT Government should:

- Ensure that the property and construction industry has representation on the ACT Government’s Red
Tape Reduction Panel.

- Expand the scope of the Red Tape Reduction Panel to encompass all major impediments to investment including tax and planning and to include the building, construction and property industries.
- Establish and maintain a central and linked database of prequalified details to eliminate duplication of information in government procurement processes.
- Introduce practical exemptions from repetitive paperwork demonstrating best practice risk management. This will enable small businesses to be viable and competitive in the market whilst maintaining workplace safety.
- Agree, in consultation with industry, to a schedule of priorities for policies to cut red tape, to streamline regulation and to improve the taxation and superannuation environment. Quarterly progress reports should be undertaken and made public to instil confidence in investors that Canberra is open for business.
2. THE PROPERTY INVESTOR/BUILDER JOURNEY

The property sector is critical to the ACT economy – contributing $2.6 billion in direct contributions to the economy, nearly 10 per cent of the Territory’s total wealth, and a further $3 billion in flow-on demand for goods and services. The sector also provides over 50 per cent of the total ACT Government tax revenue each year – the highest of any industry share. It is the largest private sector industry in Canberra independent of government.

The property investment and construction industry have underpinned the development of Canberra since self-government. Residential (infill and greenfield) development has responded well to above average population growth. Commercial, institutional and industrial development and refurbishment has transformed the city, providing a platform for new business and strengthening our profile as the nation’s capital.

The launch of Invest Canberra in December 2013 as an initiative of the ACT Government’s ‘Growth, Diversification and Jobs’ policy indicates government’s continuing commitment to encouraging investment in the city, with a particular focus on the opportunities inherent in the new City to the Lake and Capital Metro initiatives. In order for future investment in these projects to take place, business needs a supportive regulatory and administrative environment to facilitate new construction and redevelopment.

2.1 STRATEGIC PLANNING

Despite positive dwelling and construction figures, consumer and investor confidence remains low in Canberra. Good development requires robust governance and planning infrastructure - there is a real need for the business and development industry to have certainty in government investment and support. Strategies for the release of land, civic planning and capital works have a significant effect on the viability of the building and construction industry in the Territory.

The ACT Government should acknowledge its own tremendous capacity to boost business confidence and take leadership in crafting and facilitating a positive development future.

2.1.1 PROVIDE CERTAINTY FOR CAPITAL WORKS PROGRAM

ISSUE

In order for a city to prosper, its infrastructure must be planned in collaboration with the community and industry and be funded and delivered in practical time frames. Funding for infrastructure and development is central to planning for the long-term future of the city. Without first-quality infrastructure it will be virtually impossible to encourage investment or garner community support for aspirational projects – the substance of world-class cities.

The local property and construction industry is experiencing a major downturn. ACT Government decisions in relation to land release, infrastructure delivery and its capital works program all have an impact. This has been compounded by cuts to the Australian Public Service – the results of which are only now starting to be felt but which will likely impact significantly on the property and construction sector as demand for new dwellings and new commercial construction slows. In such a climate, the local industry must rely heavily on the certainty of the ACT Government capital works program and the sustainable management of projects.

Industry feedback indicates that there are likely to be significant local job losses if there is no such certainty, particularly in major works over at least the next five years. While the ACT Government has committed to some forward capital works, we believe key infrastructure projects should be brought forward and funded to assure Canberra’s future development, and to underpin the economy. We urgently need an action plan and an economic blueprint for the Territory.
RECOMMENDATION
The ACT Government should:

• Task the Coordinator-General with providing firm time frames for key construction projects.
• Break larger projects down into smaller sizes to allow local companies to compete in the procurement process and/or require tenderers to demonstrate how they will utilise local companies in providing the goods and/or services and note that this is taken into account in the tender evaluation process.
• Establish an ACT Infrastructure Panel that includes industry members, and task it with developing a 30-year forward plan for Territory infrastructure projects.
• Apply a comprehensive and transparent methodology with responsible budgetary allocations to identify future infrastructure priorities.

2.1.2 COORDINATED MASTER PLANNING

ISSUE
Industry welcomes the positive strategic and master planning documents that have been produced by the Territory Government over recent years. However, we remain concerned that key issues are still overlooked and that the relative implications and coordination of the plans has not been fully considered.

We have consistently advocated for a comprehensive master plan and economic development strategy for the City Centre. The recently released Draft City Plan purports to provide a new guiding strategy for the City, building on the Canberra City Action Plan, the City to the Lake strategy and the ACT Government’s plans for Capital Metro. However, the Draft City Plan does not, in our view, currently provide that necessary strategic framework. Nor is the impact of the Draft Plan on the future of other town centres and their suburbs sufficiently clear.

Industry is concerned that there appears to be no clear vision for the City Centre nor has there been identification of core projects, priorities or implementation parameters – particularly for the coming five years.

RECOMMENDATION
That the ACT Government:

• Establish clear responsibilities and roles to avoid duplication and demand collaboration by those agencies involved in the development of strategic planning and implementation of associated strategic projects and key initiatives.
• Ensure strong leadership for each of these plans, strategies and projects to obtain funding and maintain direction over their life.
• Develop targeted urban infill master plans to encourage higher density development, mixed-use development and design quality, particularly in Town and Group Centres and along transport corridors.
• Establish a Civic Development Authority (CDA) and a clear delivery program with measurable implementation milestones to support the growth and prosperity of the City Centre.
• Establish a group, independent of the CDA, to progress the delivery of the Australia Forum.
2.2 LAND ACQUISITION

Land release policies over the past six years have resulted in a significant increase in the number of dwelling sites made available to the property and construction sectors, and to the public. Industry support has always been couched with words of caution to ensure that release does not overly exceed demand. However, with demand for new sites still continuing to exceed supply, government’s recent announcement of a slowdown in the land release program is cause for significant concern.

2.2.1 LAND SUPPLY ISSUE

A reduction in the future supply of dwelling sites has the potential to cause a near shutdown of the building industry in Canberra. The new homes market has already suffered from a shortage of land following delays due to drawn out negotiations for Commonwealth environmental approvals.

The ACT Government’s announcement to slow the land release program, coupled with the Land Development Agency’s (LDA) recently-stated intention to take responsibility for all new residential developments in the short to medium term, will mean that local developers will have to wait at least two years before they have an opportunity to access land for development in the ACT.

In order to meet demand, a steady and reliable supply of land needs to be ensured including sites that are affordable for lower income home buyers.

RECOMMENDATION

That the ACT Government:

• Review the land release program in consultation with industry, including the HIA, MBA-ACT and the Property Council.
• Recommit to a land release policy of one third Englobo land release to the private sector, one third joint ventures and one third land development by the LDA. Should government not wish to continue with joint venture development, then commit to at least 50 percent land development by the private sector, including Englobo releases.
• Introduce a ‘code compliant’ track for approval of state development plans for new subdivisions.
• Accelerate the servicing of land in Moncrieff and Throsby by including private developers in the program.
• Identify suitable sites for future retirement living developments.
• Ensure an adequate supply of blocks priced for less than $200,000.

2.3 THE DEVELOPMENT APPLICATION PROCESS

While there have been positive improvements to development application processes in recent years, development and investment in Canberra continues to be hampered by unnecessary complexity and uncertainty that plagues our planning regulatory environment. Despite reform to the planning environment in 2008, subsequent variations to the Territory Plan have frustrated positive urban outcomes and limited housing choice while inadequate coordination between government agencies prevents timely consideration of applications. Builders and property investors are regularly required to submit multiple levels of information to various agencies, and are often then provided with either conflicting advice or are given the run-around between officers and/or agencies.
In addition to the often inefficient and costly approval environment, the ACT has the highest regulatory fees and charges in Australia especially relating to the expiry of development applications, commencement and completion of works and other building levies associated with projects. These fees are having a detrimental effect on industry activity now.

2.3.1 OVERLY COMPLEX DEVELOPMENT APPROVAL PROCESS

ISSUE
Recent changes to the Territory Plan via Variation 306 have caused outcry from industry with good cause. The new interim requirements for solar access limit the viability of construction on many blocks (particularly greenfields), rendering positive outcomes in new suburbs expensive and in some cases impossible. Application of the Adaptable Housing Standard to secondary residence requirements after consultation on Variation 306 had already concluded is also cause for concern – bringing into question the viability of relevant new residences under the proposed planning regime. In addition, the replacement dwelling rule limits the ability for contemporary dwellings to be realised within existing suburbs to the detriment of better urban and suburban outcomes and penalises people who either do not need or cannot afford a three bedroom house.

A further layer of complexity is added by a lack of access to various agencies or certainty with regard to their requirements. Pre-application meetings with government agencies – critical to efficient development approval processes – are difficult to arrange, particularly when more than one agency needs to be consulted. There is limited coordination or communication between relevant agencies on development applications (which often require the input of ESDD, TAMS, ACTEW and sometimes also the Heritage Council) and ESDD does not have authority to review referral authority advice.

RECOMMENDATION
The ACT Government should:

• Overhaul the Development Application and Building Approval System and associated appeal rights and processes for high density and commercial developments in consultation with the building and construction industry.

• Workshop the impact of Variation 306 with industry and key agencies, including the LDA, Treasury, ACTPLA, and TAMS. This process should consider the impacts of the draft variation in the current economic environment and on housing affordability.

• Formalise a system to enable potential applicants to meet with representatives from TAMS, ESDD and ActewAGL to discuss proposed developments.

• Ensure harmonisation between ESDD and other agencies, especially between the objectives of ESDD and TAMS and other referral agencies such as ACTEW and the Heritage Council.

• Develop template documents and guidance material for referral entities in line with the ACT Auditor-General’s Office report into the ‘Development Application and Approval System for High Density Residential and Commercial Developments’.

• Encourage harmonisation by aligning agencies involved with planning and development with a single Minister.

• Conduct a review of all fees and charges for building, construction and property development to provide fairness and equity and to place Canberra on a competitive footing with the rest of Australia.
2.3.2 COMMENCE AND COMPLETE FEES

ISSUE

Penalties for failing to commence and complete work on commercial, mixed use and multi-unit sites remain excessive and unreasonable.

The reason provided to industry at the time government introduced the dramatic increase in commence and complete fees was to stop land banking in the residential sector at a time when residential land prices were increasing at a rapid rate, and the LDA was unable to meet demand. At that time industry was advised that the fees were never intended to apply to the non-residential sector and that there would be an early review to exclude the non-residential sector from the new fee scales.

As announced by the ACT Government at the time of their introduction, the new fees were to apply by a process of doubling the annual general rates payable. The anomaly of applying the fees across all sectors was not corrected by government, and following the abolition of land tax and the increase in general rates for the commercial sector the effect has been to increase the fees to an unsustainable level and at a much greater rate than originally contemplated by government.

There is significant anecdotal evidence that the purchasers of non-residential land are now factoring in the potential commence and complete fees when purchasing land, with a consequent reduction in prices paid to the LDA, resulting in a reduction in revenue paid to government from dividends from the LDA.

There is also now clear advice from lending institutions that they are lending less of the total purchase price than was the case prior to the introduction of the fees. This is due to the fact that in the event of the lending institution having to exercise power of sale in the event of a forced sale, the ACT Government receives priority over a registered mortgagee. Financiers are therefore requiring greater equity from potential purchasers thus reducing competition at the time land is sold.

Further, because unimproved values for rating purposes are based on LDA sales prices, when land sales prices are reduced, this in turn results in reduced UCVs, thus impacting on the level of general rates received by government.

All of the evidence points to a property sector under considerable pressure with financing for projects uncertain and vacancy rates remaining high. In this economic climate it is surprising that government would seek to penalise property owners who are ‘weathering the storm’.

Industry maintains the position that investors do not buy land simply to incur holding costs and pay rates and taxes on an empty site with no revenue. Investors seek a return and in ordinary economic conditions will act quickly to develop land efficiently.

Industry urges the ACT Government to reconsider the application of commence and complete charges and amend the regulation to waive the charges as they apply to commercial, mixed-use and multi-unit sites.

RECOMMENDATION

That the ACT Government:

- amend the ‘commence and complete’ regulation to waive the charges as they apply to commercial, mixed-use and multi-unit sites.
2.3.3 DELIVERING HOUSING CHOICE

ISSUE
A diverse range of housing typologies that respond to changing demographics – for example, the increasing demand for retirement accommodation – is needed across Canberra. Infill locations in particular are vital to support those ageing Canberrans who want to age in or near their familiar neighbourhoods. A more assertive position is required by the ACT Government to establish a strategic planning framework to encourage large and small-scale developments in all locations of the city.

RECOMMENDATION
That the ACT Government works together with industry to ensure the proven demand for the widest range of housing types are developed and delivered as the city grows.

That the ACT Government introduce policies to achieve a diversity of housing choices. These should include policies that support:

- More appropriate and affordable infill developments in zones RZ2 and RZ3.
- Block amalgamation which could ameliorate the difficulties resulting from subdivision and leasehold patterns which tend to work against appropriate subdivision.
- Adaptive re-use of many of the B, C and D grade buildings in the city.

Fast-tracking development proposals and other programs that encourage development proposals that are aligned with the ACT Government’s published objectives should also be considered.

2.4 THE BUILDING APPROVAL PROCESS AND CONSTRUCTION

The current building approval system has significant flaws. A gradual breakdown in communication between the regulatory agencies and construction practitioners has led to a propensity to react and over-regulate, adding layers of frustration to an already over-regulated process. The private certification system requires a significant overhaul if it is to assist in achieving greater efficiencies in the process.

2.4.1 PRIVATE CERTIFICATION

ISSUE
There are a number of concerns related to private certification that continue to constrain industry needlessly. Of significance, the role of the private certifier has never been adequately defined and communicated to the community. One consequence is a perception that private certifiers act only for the developer/builder and not in the interests of the end consumer.

The failure to use disciplinary processes to manage the few non-performing certifiers has also brought the system into an unwarranted level of discredit. Similarly, there is a sense that the regulator has been granted insufficient powers to act with determination. Current processes are based on ‘lowest common denominator’ principles. Rather than eliminating the lowest common denominator, the entire industry is penalised.

We believe that the current system of Building Approvals is becoming increasingly unworkable for a range of reasons. Key issues include the breakdown in communication between the regulatory agencies and the construction practitioners (builders, plumbers, electricians, etc.) and a sense that the process is over-regulated.

Private certification was introduced on the premise that it would deliver a more efficient and cost effective
building approval system. Almost 15 years on there is a distinct lack of confidence by all in the effectiveness of the process.

**RECOMMENDATION**

That the ACT Government:

- Agree to a comprehensive review of the private building certification and approval system to be conducted by a suitably qualified and completely independent person.
- Establish a fully independent building regulatory advisory committee (BRAC) to provide a more strategic approach to building regulation and to reduce the need for ad-hoc responses to issues as they arise.

### 2.4.2 RETROSPECTIVE REGULATION

**ISSUE**

The construction phase of project delivery is generally the most streamlined part of the project life-cycle. Notwithstanding this, the coordination of service providers (utilities, telecommunications, etc) is essential to ensuring that delays are minimised. Government’s ability to introduce retrospective regulation – despite valid building approvals having been obtained – has the potential to significantly delay project delivery. A recent example is the requirement for independent gas metering in multi-unit complexes.

Unforeseen delays can also be caused by changes to required traffic management and site access, which may be due to pre-agreed conditions with government agencies being ignored or inadequately assessed during the approvals process. Such delays have significant negative flow-on effects for investors, industry and in turn the community.

Changes to regulations and standards during the construction phase can derail project timelines with resultant additional costs and penalties. In some cases project completion cannot be achieved because final building approval cannot be obtained.

Recent years have also borne witness to an inordinate escalation of fees and charges associated with the approvals process which has significantly impacted on affordability.

**RECOMMENDATION**

That the ACT Government:

- Require all key agencies and service providers to identify at the pre-application stage of the project those issues that could affect construction delivery and completion.
- Ensure that once building and development approval is granted there is a publicly agreed period of time within which any retrospective regulation will not apply.
- Reconvene the Industry Monitoring Group (a forum that had a good track record in resolving a range of planning and inter-agency issues prior to construction) to monitor agency performance both before and during the construction delivery phase.
2.5 UNIT TITLING

Delays in unit titling have become such an ingrained part of the development process that industry now has no option other than to factor holding costs into overall project costs. This has an obvious flow-on effect on the final costs of dwellings and ultimately on housing affordability.

2.5.1 UNIT TITLING PROCESS

ISSUE

Any delay in unit titling imposes significant holding costs that escalate dramatically subject to the number of units and/or the size of the development.

Industry recognises that the ACT Government established and privatised the Works Assessor role to expedite the pathway to unit titling. Unfortunately, despite this there has been no discernible improvement in the length of time it takes to achieve unit titling.

Delays may be occurring due to:

• The requirement for a Unit Title Assessment Report (UTAR) lodged by the Works Assessor is subject to a 100 per cent audit by ACTPLA representatives – a duplication of the process that adds time but not necessarily value.
• Inadequate resourcing within ACTPLA to perform the audits.
• A possible lack of skills, knowledge and/or attention-to-detail by the registered Works Assessors.
• The unnecessary linear nature of the process whereby one step must be signed off before another can start.
• The requirement to complete, in entirety, all works including verge works and soft landscaping prior to submission of the UTAR.

RECOMMENDATION

That the ACT Government:

• Complete a systematic review of the unit titling process to determine its effectiveness and implement expeditious changes to address problems.
• Develop and mandate a training program for Works Assessors to ensure they have the appropriate skills and capabilities to conduct effective assessments.
• Reintroduce performance bonding for verge works and soft landscape works to allow earlier UTAR assessment.

2.6 OWNERSHIP AND REALISING INVESTMENTS

Competition for new homes in urban areas and government policy to increase urban infill suggest conditions that should support and encourage redevelopment and realising investments on inner-city sites. Unfortunately, and in contrast to other states and territories, the Lease Variation Charge (LVC) acts as a major disincentive to investment in our city.
2.6.1 LEASE VARIATION CHARGE

ISSUE

There is mounting evidence that the LVC has become a significant disincentive to development and redevelopment in Canberra to the detriment of investment confidence, the ACT economy and the community in general.

The charge adds significant costs to new development which are ultimately passed on to the purchaser – with negative effects on affordability. Contrary to the Territory’s policy to increase urban density, LVC focuses new development into greenfield areas or vacant sites in established areas where development is more cost-effective.

The Territory’s forecast revenue from the LVC has plummeted – indicating that the volume of redevelopment has dramatically reduced. Similarly, a report prepared in 2012, *The ACT Lease Variation Charge Implications for housing affordability, development and growth in Canberra*, found that in the first year following introduction of LVC the number of development applications processed in the ACT fell by 56 per cent. We believe this decline will continue unless swift action is taken.

Without reform we predict a further decline in redevelopment activity, as well as, an increase in disputed valuations. This is already causing projects to be delayed or abandoned putting an end to effective infill redevelopment.

RECOMMENDATION

That the ACT Government:

- review the methodology for valuation for the purpose of LVC with the aim of removing complications and simplifying the code tables.
- apply a fixed 75 per cent rate of tax remission (25 per cent LVC) on the value uplift under prescribed chargeable variations that are subject to codified charges.
- introduce simple and meaningful remission schedules (developed in consultation with industry) that promote growth in the areas of the city that need it and achieve credible investment and community outgoings.
- allow offsets for existing improvements, demolition and onsite/offsite works for Section 277 chargeable variations while retaining the 25 per cent tax remission.
3. THE BENEFITS OF GETTING IT RIGHT

The property and property and construction sector is critical to the ACT economy – and for that reason, it is vital to the future of our city and its people.

The positive impact of implementing change to improve the operating environment for the property and construction industry will more closely align public policy with community interests and deliver a Canberra open and ready for business. Innovative and responsive development will engender confidence in the future – encouraging the next generation of entrepreneurs and developers to invest in the Capital. A diversified economy with new industries and investment opportunities will also act as an attractor to the smart young next generation of Canberrans. Of significance, a strong and flexible property sector can also help to implement critical government initiatives. Appropriate housing for older Canberrans, urban infill, sustainable development, affordable housing and transit oriented development are more likely to be achieved when government and industry can work collaboratively.

We have all the hallmarks of a city in which good investment can thrive and where the community can look with optimism to the future. It is imperative that we take advantage of our unique status as the intelligent National Capital and take the right next big steps to ensure growth, diversity and prosperity.

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CALL TO ACTION  
A JOINT INDUSTRY SUBMISSION TO THE ACT GOVERNMENT FOR REGULATORY AND PROCESS REFORM IN THE BEST INTERESTS OF CANBERRA
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