

The Committee Secretary

Standing Committee on Economic Development and Tourism

Legislative Assembly for the ACT

GPO Box 1020

Canberra ACT 2601

Dear Secretary

Discussion Paper – Inquiry into the quality of recently constructed buildings in ACT

I have had over 45 years experience in the construction profession. A large proportion of this has been as an employee in The ACT Regulatory system. I have been a Senior Building Inspector and a Senior Building Licensing Officer. I have extensive experience in both the public and private sectors. Given my current and past experiences in this profession I recommend some balanced and realistic solutions to these issues. I am available to further expand on these issues at The Standing Committee if required.

I have reviewed some of the submissions to The Committee and note that most do not address the issue of building quality. It is clearly evident that the broken trust in elements of our construction industry in the ACT continues to escalate, despite the fact that significant improvements have been made since the release of The 2010 Building Quality Report. The new direction from the crisis of trust is more regulation to improve builder behaviour, more licensing and surprisingly some of these calls are from industry institutions, an admission that they have failed in their leadership. The industry is currently strangled with "Red Tape". The insistence of more regulation from the industry is confusing, as currently we have more than adequate regulation. In my opinion we need stronger enforcement of the current regulations and better up front systems. Good design and documentation is the responsibility of the proponent undertaking a development, but the regulator has the role to ensure minimum standards are achieved.

The impact of serious defects on some previously constructed ACT projects (multi-unit developments) was substantial, both in terms of the astronomical remedial costs and damage that these reported defects impacted on the industry's reputation.

The majority of the defects identified had originated from either poorly specified design documentation, selection of sub-standard building products or lack of skill by the contractors in completing their tasks to a satisfactory standard. In some instances specifications and plans had been ignored. Some approvals and certification had also been questionable and found to be deficient.

A substantial proportion of the inspections and quality control on some of these projects is inappropriately left to "somebody else" and checking of the completed work is viewed as someone else's responsibility. This creates some fundamental flaws in the current system. This urgently needs to be addressed to protect the reputation of the industry and to deliver a quality product to the consumer. The construction sector is a major contributor to The ACT economy accounting for over \$4billion and is also the second largest employer. It is crucial that a collective and collaborative approach is taken by all involved. The solution is not imposing a levy as in NSW, to cover defective work. A more concerted effort is required from the design to the built product in order to deliver a professional quality project.

The Building Certification system is not solely responsible for all the failures as is indicated in many of the submissions. In my view the majority of the deficiencies are attributed to the role of the principal contractor. The majority of builders (who I am currently associated with), have excellent systems and deliver high quality projects. The challenge is to ensure that the current non-performers in the profession are required to deliver the same high standard projects. The entire industry should not be penalised for the transgressions of the non-performers.

Performance Solutions are now adopted in 90% of multi unit and commercial buildings in The ACT. Currently there is no process for Peer Review apart from consultation with ACT Fire and Rescue on matters relating to fire safety. There is no Peer Review process for structural, weatherproofing, waterproofing, condensation control and energy efficiency, yet these issues account for a large proportion of the reported defects.

The licensing of key professionals and Para professionals involved in the design and certification process should be supported with mandatory professional development training in the application and use of The National Construction Code as recommended by the Shergold Weir Report. We should not be recommending the wholesale licensing of trade contractors; this will simply devolve the principal contractor of responsibility. The principal contractor is solely responsible to ensure that the sub-contractors are suitably qualified. The industry is also in the process of significant change with offsite manufacturing and prefabrication accounting for a large proportion of the building components. There is also no point in licensing other professionals if Professional Indemnity Insurance (PI) is not a mandatory component. The industry is currently facing challenges in obtaining PI Insurance.

The ACT Government has introduced testing for individual licence holders, which I support as it will eliminate the non-performers who should not have a builders licence. It should be clearly understood that projects are not built by individuals. Corporate entities undertake building work and the nominee licence holder (being an employee or director) generally has a very limited role as is common in The ACT. The structure and capacity of the company should be the key focus when granting a builders licence and at licence renewal time. The focus should not be on the individual but should be targeted at the entity and the management structure responsible for performing the work.

The current system implemented by The Public Housing Renewal Taskforce of a design review process, where there is early engagement with the appointed Building Surveyor and other relevant professionals ought to be more widely adopted. This early engagement has played a key role in facilitating complying developments. Some of the more complex developments are subject to Peer Review. Yet this constructive type of early engagement is frowned upon as it is implied that the Building Surveyor may be involved in the design.

More support is required from The ACT Government to raise the status of the Building Regulatory function in The ACT, which has been in decline for several years. There is an office of Chief Architect and Chief Engineer. There should be the office of Chief Building Surveyor or Building Controller to support the role of The Registrar. In any organisation leadership plays a key function in changing the culture. Without an appropriate level of leadership, communication and support, the necessary reforms will not be achieved. Experienced and qualified leadership will gain support as it has in the past. This will ensure communication to all stakeholders through seminars, public speaking opportunities, consultation and information flow about all necessary changes. This will instil a feeling of ownership and will assist in alleviating the fears of those affected.

My recommended ten point plan

- 1. Stronger enforcement of current regulations for non-performers**
- 2. Principal contractors required to implement mandatory inspections and testing for key elements during construction process**
- 3. No further major regulations required as current regulations are adequate**
- 4. Mandate minimum design and construction standards supported by Continuing Professional Development and training in the application and use of The National Construction Code**
- 5. Implement peer review system for more complex projects**
- 6. Greater scrutiny of corporate licensing – to include those responsible for supervising and managing the construction**
- 7. Give serious consideration to the implementation of the recommendations contained in The Shergold Weir Report**
- 8. Design review process with early Building Surveyor engagement**
- 9. Appoint Chief Building Surveyor or Building Controller to support The Registrar**
- 10. Implement stricter guidelines for the granting and renewing of individual and corporate builders licenses (impose conditions and restrictions if necessary)**

Jerry Howard

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