

# Property Developers (Relevant Property Developer) Code of Practice 2025

Disallowable instrument DI2025–248

made under the

Property Developers Act 2024, s 117 (Codes of practice)

## EXPLANATORY STATEMENT

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This explanatory statement relates to the *Property Developers (Relevant Property Developer) Code of Practice 2025* as presented to the Legislative Assembly. It has been prepared to assist the reader of the instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

This statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument. What is said about a provision is not to be taken an authoritative guide to the meaning of a provision, this being a task for the courts.

### Background

The *Property Developers Act 2024* (the **Act**) establishes a framework for licensing certain residential property developers, and a regulatory scheme to bring these property developers into the regulatory chain of accountability for building work they are involved in.

Section 117 of the Act permits the Minister to approve a code of practice for a relevant property developer. This code of practice (the **Code**) for relevant property developers is made under section 117 (1) of the Act.

Under section 117 (3) of the Act, a licensed property developer is required to comply with the Code. Section 117 (1) (b) also allows for a regulation to be made to prescribe other property developers who must comply with the Code.

Failure to comply with the Code is both grounds for regulatory action (section 33) and an offence (section 95).

The Code is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to section 64 of the *Legislation Act 2001* (the **Legislation Act**).

## Overview

The purpose of the Code is to set the standard of conduct for relevant property developers. This supports the objects of the Act to protect the public by ensuring that residential development activities are undertaken by relevant property developers who are competent and have the capacity to undertake those activities, and to promote public confidence in the standard of residential development activities undertaken by relevant property developers.

The Code sets out the professional conduct obligations for relevant property developers, including complying with the law, acting in a professional manner, acting within licence requirements, and maintaining adequate resourcing and insurances.

Quality assurance, risk management, communication standards and managing conflicts of interest are covered in the Code. It also includes obligations relating to influence, benefits, confidentiality, complaints management and record keeping.

The Code has a commencement date of 1 October 2026 to align with the commencement of the mandatory licensing requirements. Publishing the Code 12 months in advance will give relevant property developers an appropriate transition time to consider the obligations and implement any new processes.

## Consultation

The Code was developed in close consultation with stakeholders across the property development sector through a series of workshops. Detailed comments received from stakeholders were incorporated in the Code where possible.

## Regulatory Impact Statement (RIS)

Section 34 of the Legislation Act provides that if a proposed subordinate law or disallowable instrument (the *proposed law*) is likely to impose appreciable costs on the community, or a part of the community, then, before the proposed law is made, the Minister administering the authorising law must arrange for a RIS to be prepared for the proposed law.

A RIS is not required in this instance as this instrument does not impose appreciable costs on the community or part of the community. The Act establishes the ACT's developer licensing and regulation scheme, the requirement to be licensed and the obligations on relevant property developers.

A regulatory impact and cost benefit analysis was considered by government as part of the policy approval for the Act. This instrument implements the professional conduct obligations for relevant property developers, which align with industry best practice.

## Consistency with Human Rights

The Standing Committee on Legal Affairs (Legislative Scrutiny Role) (the **Committee**) terms of reference require consideration of human rights impacts, among other matters.

Section 27B (1) of the *Human Rights Act 2004* (the **HRA**) expressly provides that the practice of a trade, occupation or profession may be regulated by law. Determining standards of conduct is common practice in occupational registration schemes.

A detailed human rights assessment is contained in the explanatory statement to the Property Developers Bill 2023, including consideration of the impact of the introduction of a property developers licensing scheme in the ACT on the right to work under section 27B of the HRA.

Any engagement with or limitation on the right to work in section 27B of the HRA is considered reasonable and justifiable.

The instrument is consistent with the Committee's Terms of Reference. In particular, the instrument:

- is made under a ministerial power found in the Act;
- is in accordance with the general objects of the Act under which the instrument is made;
- does not unduly trespass on rights previously established by law; and
- does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.