

2026

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELEVENTH ASSEMBLY

PROPERTY DEVELOPERS LEGISLATION AMENDMENT BILL 2026

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

**Presented by
Mr Chris Steel MLA
Minister for Planning and Sustainable Development
September 2026**

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PROPERTY DEVELOPERS LEGISLATION AMENDMENT BILL 2026

This explanatory statement (the **statement**) relates to the Property Developers Legislation Amendment Bill 2026 (the **Bill**) as presented to the ACT Legislative Assembly (the **Assembly**). It does not form part of the Bill and has not been endorsed by the Assembly.

The statement is to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as providing a definitive interpretation of the meaning of a provision, this being a task for the courts.

The Bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (the **HRA**).

OVERVIEW OF THE BILL

The purpose of the Bill is to make minor and technical amendments to the Property Developer Licensing and Regulation Scheme, to clarify, streamline and improve the licensing process.

The amendments respond to feedback from government and industry stakeholders and support the commencement of mandatory licensing as well as the ongoing operation of the scheme by reducing the administrative burden on industry and government.

The Bill amends the following legislation and subordinate legislation:

- *Building Act 2004*;
- *Civil Law (Sale of Residential Property) Act 2003*;
- *Civil Law (Sale of Residential Property) Regulation 2004*;
- *Planning Act 2023*;
- *Property Developers Act 2024*; and
- *Property Developers Regulation 2025*.

A summary of the amendments included in the bill is provided below:

- An amendment is proposed to section 27 of the Act to insert a regulation making power to allow for alternative approval criteria for approving rating entities via the Property Developers Regulation 2025. This will provide a pathway for additional approval criteria to be prescribed through a future regulation amendment once they are determined, and support City and

Environment Directorate (CED) work to encourage other ratings entities to apply to become approved under the Act.

- An amendment is proposed to add in projects with National Capital Authority (NCA) “works approval” to the application provision of Part 5 of the Act. This will clarify that rectification orders, stop work orders and undertakings can apply to projects on Designated Land (Territory Land) where building approvals under the ACT’s Building Act are issued. This corrects a drafting oversight and will not be retrospective.
- Minor amendments are proposed to this suite of legislation, to provide that a single licence can be “attached” to a project in circumstances where the landowner, the person applying for development approval, or the person arranging for the building work could be different people.
- Amendments are proposed that will allow a corporation (i.e. special purpose vehicle (SPV) created to progress a development), where all shareholders hold existing property developer licenses that do not restrict them from carrying out certain building work, to obtain a licence without having to provide a rating report and other evidence about their suitability to hold a licence.
- The bill includes a new policy proposal, to exempt a property developer from the personal liability provisions in section 52, if:
 - a latent defects insurance policy or other similar insurance policy is in place; and
 - the insurance policy complies with any requirements for latent defects insurance prescribed under the Building Act 2004, section 95A.

This policy change will maintain strong consumer protection in the form of incentivising insurance coverage through a 10-year defect liability insurance, issued at the completion of construction for the benefit of future homeowners, whilst providing an avenue for developers to choose to take out the insurance or have the personal liability provisions apply.

- The bill makes some minor and additional editorial amendments to correct drafting errors and improve consistency of terminology.

CONSULTATION ON THE PROPOSED APPROACH

The City and Environment Directorate (CED) has continued to work closely with industry stakeholders on implementation of the *Property Developers Act 2024*, including with industry groups, lawyers advising prospective licensees, and prospective licensees. The Property Law Committee of the ACT Law Society was consulted in-confidence on the drafting instructions and draft Bill.

All ACT Government Directorates were consulted on the policy proposals and draft Bill. Access Canberra and the Construction Occupations Registrar within CED was consulted, to ensure the Bill would not negatively affect service delivery or digital infrastructure, supporting operational continuity. Digital Canberra was engaged to confirm that there are no unintended impacts on digital infrastructure.

The Human Rights and Social Policy team within the Justice and Community Safety Directorate provided input during drafting to ensure human rights considerations were thoroughly addressed.

CLIMATE IMPACT

This Bill does not explicitly address climate change, however it supports climate change mitigation by strengthening the ACT's building and construction regulatory system, ensuring it promotes sustainable building practices. More broadly, the ACT's building reform agenda prioritises the development of a climate-resilient and environmentally sustainable built environment for both current and future generations.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the Bill, due regard was given to its compatibility with the rights set out in the HRA. The Bill is **not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the HRA.

An assessment of the Bill against section 28 of the HRA has been completed. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Detailed human rights assessments are contained in the explanatory statements to the relevant Bills for the legislation that is being amended. The human rights assessment here focusses on the minor and technical amendments included in this Bill.

Rights engaged

The Bill does not engage human rights to a significant extent. However, the Bill does broadly promote the right to a healthy environment. Section 27C of the HRA recognises that a clean, healthy and sustainable environment is necessary for the full enjoyment of a vast range of fundamental human rights under international law, including the rights to life, health, food, water and development. This Bill strengthens the ACT's building and construction regulatory system, ensuring it promotes sustainable building practices which, in turn, promotes the right to a sustainable environment, as a component of section 27C of the HRA.

PROPERTY DEVELOPERS LEGISLATION AMENDMENT BILL 2026

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **PROPERTY DEVELOPERS LEGISLATION AMENDMENT BILL 2026**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause provides that the name of the Act is the *Property Developers Legislation Amendment Act 2026*.

Clause 2 Commencement

This clause provides for the commencement of the Act. Parts 1, 2, 5, 6 and 7 of the Act, commence the day after the Act's notification day. Schedule 4 and parts 3 and 4 commence on the day the *Property Developers Act 2024*, schedule 2, amendment 2.31 commences.

Clause 3 Legislation amended

This clause identifies the legislation that is amended by this Act.

Clause 4 Legislation repealed

This clause repeals the *Civil Law (Sale of Residential Property) Amendment Regulation 2025 (No 1)*. This regulation makes minor amendments to the *Civil Law (Sale of Residential Property) Regulation 2004*, which has not yet commenced. This Act incorporates these amendments into new amendments

Part 2 Building Act 2004

Clause 5 Certifier not to consider certain applications Section 27 (1) (ca)

This clause substitutes a new section 27 (1) (ca), which provides that a certifier must not consider an application for building approval unless at least one person in relation to the building work holds a suitable property developer licence.

Clause 6 Section 27 (2), new definition of *suitable property developer licence*

This clause inserts a new defined term of *suitable property developer licence*.

Clause 7 Approval of certain residential building work when property developer licence required Section 28AA (2) and (3)

This clause substitutes existing subsections (2) and (3) of Section 28AA of the *Building Act 2004* to insert the new defined term *suitable property developer licence* into each.

Part 3 Civil Law (Sale of Residential Property) Act 2003

Clause 8 Definitions-pt 2A Section 19AA (1), definition of *Commonwealth or State entity*

This clause substitutes a new definition of *Commonwealth or State entity*, to replace a reference to the Northern Territory in the definition in line with the rest of the *Civil Law (Sale of Residential Property) Act 2003*, the statute book and drafting practice.

Clause 9 Section 19AA (1), new definition of *suitable property developer licence*

This clause inserts a new defined term of *suitable property developer licence*.

Clause 10 Off-the-plan contracts—seller must be licenced Section 19AB (1) (a)

This clause amends the licensing requirements for off-the-plan contracts to clarify that it relates to “a unit or residence in” a regulated residential building, for the offence provision.

Clause 11 Section 19AB (1) (b)

This clause substitutes a new section 19AB (1) (b) which provides the licensing requirements for selling dwellings off-the-plan.

Clause 12 Section 19AB (2) (c)

This clause updates the wording of this section in line with drafting practices.

Clause 13 Off-the-plan contracts-advertising Section 19AC (1) (a)

This clause amends the requirements for including the property developer licence number in advertising dwellings for sale off-the-plan, to clarify that it relates to “a unit or residence in” a regulated residential building, for the offence provision.

Clause 14 Off-the-plan contracts-advertising Section 19AC (1) (b)

This clause substitutes a new section 19AC (1) (b) which sets out the requirements for including the property developer licence number in advertising dwellings for sale off-the-plan.

Clause 15 Section 19AC (2) (c)

This clause updates the wording of this section in line with drafting practices.

Clause 16 Section 19AC (3) (a)

This clause amends the requirements for including the property developer licence number in advertising dwellings for sale off-the-plan, to clarify that it relates to “a unit or residence in” a regulated residential building, for the offence provision.

Clause 17 Section 19AC (3) (b)

This clause substitutes a new section 19AC (3) (b) which sets out the requirements for including the property developer licence number in advertising dwellings for sale off-the-plan.

Clause 18 Disclosure statements Section 19AD (1) (a)

This clause substitutes a new section 19AD (1) (a) which sets out the requirements for disclosure statements for off-the-plan contracts. The disclosure statement must include the property developer licence number and information about the public register of property developers.

Clause 19 Dictionary, new definition of *suitable property developer licence*

This clause inserts a new definition of *suitable property developer licence*.

Part 4 Civil Law (Sale of Residential Property) Regulation 2004

Clause 20 New sections 12A to 12C

This clause inserts new sections into the *Civil Law (Sale of Residential Property) Regulation 2004* to clarify that people who on-sell an off-the-plan unit or residence are exempt from the property developer licencing, advertising and disclosure requirements.

Part 5 Planning Act 2023

Clause 21 Division 7.3.3

This clause substitutes Division 7.3.3 with a new Part, instead of a Division within existing Part 7.3, which deals with prohibited development. The heading and sections have been updated for clarity.

Clause 22 Conditional approvals Section 187 (1) (g)

This clause substitutes section 187 (1) (g) which provides that a conditional development approval must include a condition that at least one person or a related entity of the person undertaking the residential building development holds a suitable

property developer licence, if a person is required to hold a property developer licence.

Clause 23 Section 187 (6), new definition of *suitable property developer licence*

This clause inserts a new definition of *suitable property developer licence*.

Clause 24 Dictionary, new definition of *Commonwealth or State entity*

This clause inserts a new definition of *Commonwealth or State entity*, to replace a reference to the Northern Territory in the definition in line with the rest of the Act, the statute book and drafting practice.

Clause 25 Dictionary, definition of *property developer licence*

This clause amends reference for the definition of *property developer licence* to refer to new section 162A, introduced in clause 21.

Clause 26 Dictionary, new definitions

This clause inserts new definitions into the *Planning Act 2023*.

Part 6 Property Developers Act 2024

Clause 27 Section 7

This clause substitutes section 7 in the *Property Developers Act 2024*. Section 7 provides the purpose of Part 2 of the *Property Developers Act 2024*. The section has been amended to better align with terminology used in the consequential amendments to the *Property Developers Act 2024*.

**Clause 28 Applications for licence renewal
Section 13 (2) (d), new note**

This clause inserts a new note into section 13 (2) (d). The note clarifies the relationship between section 13 (2) (d), the regulation made under section 13 (2) (e) and the ongoing requirement to notify changes to the registrar under section 23.

**Clause 29 Notifying registrar about change of circumstances
Section 23 (1) (e) (i)**

This clause amends the requirement to notify the registrar when a licensee enters into an off-the-plan contract, to clarify that it relates to “a unit or residence in” a regulated residential building to ensure consistency with terminology in the *Civil Law (Sale of Residential Property) Act 2003*.

Clause 30 Notifying registrar about changes of circumstances
Section 23 (1) (e) (ii) and (iii)

This clause amends the requirement to notify the registrar when a licensee (or associated entity) applies for a building approval, by adding this requirement to a person “arranging for someone else to apply for” building approval. This clause has been updated to ensure consistency throughout the *Property Developers Act 2024* and to align with consequential amendments to the *Building Act 2004*.

Clause 31 Approval of rating entities
Section 27 (2) (a)

This clause substitutes a new section 27 (2) (a). Section 27 (2) (a) currently sets out that the director-general may only approve an entity to prepare ratings reports, which inform a decision to issue a licence to an applicant, if the entity holds an Australian financial services licence. Section 27 (5) defines Australian financial services licence.

This requirement was included in the *Property Developers Act 2024* to provide an additional level of assurance of a ratings entity, as they are regulated by the Australian Securities and Investment Commission (ASIC) as part of holding an Australian financial services licence.

Instead, it is proposed for the new section 27 (2) (a) to permit other approval requirements as prescribed by regulation. It is proposed that this regulation, once developed, will set out an alternative approval pathway based on direct evidence from a rating entity applicant.

Clause 32 Application—pt 5
Section 44 (1)

This clause substitutes new wording for section 44 (1), which provides the application for Part 5 of the *Property Developers Act 2024*. Part 5 of the *Property Developers Act 2024* covers rectification orders, stop work orders and undertakings.

The application is being expanded to cover projects with works approval that is given by the National Capital Authority on land within a Designated Area within the Territory. This amendment will only apply to projects given approval after the date of the commencement of the amendment to avoid any issues of retrospectivity and unfairly altering existing rights and liabilities.

Clause 33 Registrar may give rectification order to directors if
property developer wound up etc
Section 52 (3)

This clause substitutes a new section 52 (3), which provides that the registrar must not make a rectification order against a director of a property developer, if there is a latent defects insurance policy in place, and the policy complies with the prescribed requirements.

Clause 34 Stop work orders
Section 60 (6), definition of *relevant provision*, paragraph (a)

This clause omits the reference to section 162A, and substitutes section 162B.

Clause 35 Definitions—div 9.1
Section 108, definition of *law of another jurisdiction* and *non-territory agency*

This clause omits the definition of *law of another jurisdiction* as it is not used anywhere in the *Property Developers Act 2024*. This clause omits the definition of *non-territory agency* from this section.

Clause 36 Sharing public safety information—non-territory agencies
Section 110 (1) (b)

This clause substitutes a new section 110 (a) (b) to update the definition of *non-territory agency*, to replace a reference to the Northern Territory in the definition in line with the rest of the *Property Developers Act 2024*, the statute book and drafting practice.

Clause 37 New section 110 (3)

This clause provides the definition of *non-territory agency* as the term is only used in this section and nowhere else.

Clause 38 Offences—use or divulge protected information
Section 111 (3) (a) (i)

This clause updates the wording of this section to improve the drafting and for consistency with the rest of the *Property Developers Act 2024*.

Clause 39 Section 111 (3) (a) (ii)

This clause updates the wording of this section to improve the drafting and for consistency with the rest of the *Property Developers Act 2024*.

Clause 40 Section 111 (4)

This clause updates the wording of this section to improve the drafting and for consistency with the rest of the *Property Developers Act 2024*.

Clause 41 Section 111 (5), definition of *protected information*

This clause updates the wording of this section to improve the drafting and for consistency with the rest of the *Property Developers Act 2024*.

Clause 42 Section 119, heading

This clause updates the wording of this section to improve the drafting and for consistency with the rest of the *Property Developers Act 2024*.

Clause 43 Section 119 (1) and (2)

This clause updates the wording of this section to improve the drafting and for consistency with the rest of the *Property Developers Act 2024*.

Clause 44 Dictionary, definition of *law of another jurisdiction and non-territory agency*

This clause omits definitions in the *Property Developers Act 2024*.

Clause 45 Dictionary, definition of *relevant law*, new paragraph (ja)

This clause inserts a new subsection to include a law in another jurisdiction that corresponds or substantially corresponds to the *Property Developers Act 2024*.

Clause 46 Dictionary, definition of *residential development activities*, paragraph (b)

This clause inserts the words “units and residences in,” into the definition of *residential development activities*, to clarify that it relates to a unit or residence in a regulation residential building.

Part 7 Property Developers Regulation 2025

Clause 47 Information to be included in licence application-Act, s 11 (2) (d) New section 5 (1) (b) (ia)

This clause inserts a new section 5 (1) (b) (ia) which clarifies that a licence application must include information to assess whether a current or former associated entity or key person for the corporation is a *suitable person*, as defined in section 9 (1) of the *Property Developers Act 2024*.

Clause 48 Information to be included in licence renewal application-Act, s 13 (2) (e) New section 6 (1) (ba)

This clause inserts a new section 6 (1) (ba) which clarifies that a licence renewal application must include information to assess whether a current or former associated entity or key person for the corporation is a *suitable person*, as defined in section 9 (1) of the *Property Developers Act 2024*.