

4 March 2022

The Hon Eleni Petinos MP  
Minister for Small Business  
Minister for Fair Trading  
GPO Box 5341  
SYDNEY NSW 2001

Via email: [office@petinos.minister.nsw.gov.au](mailto:office@petinos.minister.nsw.gov.au)

Dear Minister

I am writing regarding the need to reform the *Environmental Planning and Assessment Regulation 2021* (the Regulation) to clarify that the best practice approach to Building Code of Australia (BCA) compliance for staged approvals used in other Australian jurisdictions can continue in NSW.

Last year, the Association of Australian Certifiers (AAC) and other industry bodies, were in discussions with your predecessor's office about this vitally important issue and we would greatly appreciate any update on this situation.

This issue arose following the release of [Guidance Material](#) from the Department of Customer Service, which we argue will adversely impact homeowners throughout NSW, the construction industry and the broader NSW economy.

The interpretation in the Guidance Material contradicts long-standing and best practice common law principles and approaches to managing policy changes throughout the life of a construction project, namely avoiding retrospectivity, and is inconsistent in its application to Crown projects and non-Crown projects.

While the AAC disputes the interpretation included in the Guidance Material, we also recognise that the best way forward is a policy change to be made to the Regulation. As a result, we prepared a submission to the NSW Government for consideration, which can be found [here](#).

A policy change would restore certainty and confidence to the NSW Construction Industry and to homeowners and occupiers across the state. The effective reduction in red tape would also be significant.

The AAC would greatly appreciate any update on this situation and clarification on whether a policy change will be made.

If you would like to discuss further, please do not hesitate to contact me on 0431 082 259.

Yours sincerely



Jill Brookfield  
Chief Executive Officer