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LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

PLANNING AND BUILDING LEGISLATION AMENDMENT BILL 2011 (NO 2)

EXPLANATORY STATEMENT

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EXPLANATORY STATEMENT

This explanatory statement relates to the *Planning and Building Legislation Amendment Bill 2011 (No 2)* (the bill).

Background

Planning, building and environment legislation has historically been amended by a number of methods, as follows:

- the usual Act amendment process,
- by modification using regulation (commonly referred to as an 'Henry the Eighth' amendment),
- through the Statute Law Legislation Bill process, and
- as a consequence of other legislation (for example, the *ACT Civil Administrative Tribunal Legislation Amendment Act 2008* made consequential amendments to the *Building Act 2004*).

These ways of amending legislation in the Planning Portfolio could be cumbersome and confusing for community, industry and government users of the legislation. An omnibus Planning and Building Legislation Amendment Bill enables more minor matters to be dealt with expediently and consolidates amendments into one place making the amendment process more user-friendly and accessible. It provides greater flexibility in drafting amendments of planning, building and environment legislation and helps to minimise costs associated with keeping the legislation up-to-date.

Under guidelines approved by the government, the essential criteria for the inclusion of amendments in the bill are that the amendments are minor or technical and non-controversial, or reflect only a minor policy change. During development of the bill, relative government Directorates are consulted and when necessary, industry and the community may be consulted.

The bill forms an important part of maintaining and enhancing the standard of ACT building and planning law. It enables legislative amendments and repeals to be made that would generally not be of sufficient importance to justify separate legislation. The amendments are also inappropriate to be made as editorial amendments under the *Legislation Act 2001*, chapter 11 (which provides for the republication of Acts and statutory instruments). However, the cumulative effect of the amendments made through the bill will have a significant impact on the overall quality of ACT planning and building law.

This is the second Planning and Building Legislation Amendment Bill (PABLAB). The first bill was passed by the Assembly in June 2011 and through that bill 8 individual Acts were amended. This demonstrates the effectiveness of the PABLAB process as a tool that collates amendments to legislation relative to planning, building and the environment. Without this PABLAB process, these amendments could have been spread over a number of amendment bills or unnecessarily delayed. In this way, PABLAB helps to effectively maintain the statute book.

Well maintained legislation greatly enhances access to it by making it easier to find in an up-to-date form and easier to read and understand. This bill and future such bills facilitate keeping laws as up-to-date as possible to reflect technological and societal change both of which can happen rapidly in today's world.

Overview

The bill delivers three main outcomes that help to better inform the community about developments While only being minor policy changes individually, these changes deliver significant benefits to the community by improving access to information about developments and opportunities for consultation on larger scale developments.

The three main outcomes:

(1) require a notice about building work to be placed on a block so that neighbours and other interested persons have details about who to contact and what the building work involves.
(2) require certain types of building work to have a sign on the block about the work before work commences; and
(3) require developers of certain larger scale developments to consult with the community ahead of being able to apply for a development application.

The provisions to deliver these three outcomes are the majority of amendments in the bill with one minor amendment to the Plastic Shopping Bag Ban Regulation also included.

Amendments made by the bill to the Building Act (part 2 of the bill) deliver on the first two outcomes identified above. Firstly a sign is required to be on the block when building work is being done. This includes building work that was exempt from the need to have development approval. Secondly for certain types of building work that did not require development approval a sign is required to be displayed for 7 consecutive days in a 2 month period before work commences. One sign can be used for both requirements because the content is the same. This means that if the type of building work requires a sign to be displayed before building work can commence the same sign can be left-up during the building work.

The benefits of the sign are twofold: neighbours and other interested persons have details about who to contact and what the building work involves. This information will also assist work safety inspectors and emergency staff in their duties. And for that building work that did not require development approval (because it is exempt development) neighbours will have some notice ahead of the work actually commencing.

This is an important amendment because there is currently no mechanism to let neighbours know about these types of exempt development. Neighbours will now have information about what is happening next door even when what is being done is exempt development and they can talk over the proposed

development with their neighbour. The types of exempt development include a single dwelling, large garages and demolition of dwellings.

Amendments to the *Planning and Development Act 2007* (part 6 of the bill) require developers of certain larger scale developments to consult with the community ahead of being able to apply for a development application. This puts in place a valuable opportunity for both the developer and community members to consult about the proposed development. A guideline will be able to specify how this consultation must be undertaken. For example, the guideline may require a developer of a large apartment complex in a town centre to place a notice in the local paper, place a sign about the development proposal on the block and for the details about the proposal to be provided to the relevant community council for comment. The developer must provide a written notice about the consultation as part of their development application.

To deliver these three outcomes the bill amends the:

- *Building Act 2004*;
- *Building (General) Regulation 2008;*
- *Construction Occupations (Licensing) Regulation 2004*;
- *Magistrates Court (Building Infringement Notices) Regulation 2008*;
- *Planning and Development Act 2007;* and
- *Planning and Development Regulation 2008.*

An amendment is also made to the *Plastic Shopping Bag Ban Regulation 2011*. This amendment is not related to the three main outcomes of the bill.

Guidelines for pre DA consultation

Clause 10 of the bill inserts a new section 138AF in the Planning and Development Act which permits the ACT planning and land authority to make guidelines about how a proponent of a development proposal must or may undertake pre DA consultation. The bill can commence in stages in accordance with clause 2. It is proposed that the provisions relating to pre DA consultation will not commence until the guidelines have been made. The guidelines will be able to set the minimum requirements for consultation and may set additional options. For example, letters to neighbours could be set as a minimum requirement.

A guideline is a notifiable instrument and will be available to the public and industry through the ACT Legislation Register. This means that both parties, i.e. the community and the developer, will have access to the information about how pre-DA consultation is required to be undertaken.

Privacy

Clause 7 of the bill inserts a new section 30A (c) in the Building (General) Regulation. The section states that a sign for building work must include the name, licence number and contact telephone number for the licensed builder and certifier.

It is worth noting that this information is already available to the public. Telephone contact numbers for certifiers and the name and licence number of licensed builders are currently listed on the ACT planning and land authority website for the information of the public. Furthermore, section 107 of the *Construction Occupations (Licensing) Act 2004* provides that the Construction Occupations Registrar must maintain a register of licensees of this kind which is accessible to the public. Section 9 of the *Construction Occupations (Licensing) Regulation* provides that this register must contain business contact details such as names, telephone numbers and email addresses. Therefore, section 30A (c) is not compelling licensees to display any information on the sign beyond what is lawfully accessible to the general public on the register.

Strict Liability

The amending legislation creates two new strict liability offences dealing with persons removing or damaging a sign that is required, by the proposed legislation, to be displayed on the block.

A strict liability offence under section 23 of the Criminal Code means that there are no fault elements for any of the physical elements of the offence. That means that conduct alone is sufficient to make the defendant culpable. However, the mistake of fact defence expressly applies to strict liability as does the other defences in Part 2.3 of the Criminal Code. Section 23(3) of the Criminal Code provides that other defences may still be available for use in strict liability offences. Defences such as intervening conduct or event (see section 39 of the Criminal Code) are available and in accordance with current legal policy for regulatory offences with small or moderate penalties. That means that conduct alone is sufficient to make the defendant culpable. However, under the Criminal Code, all strict liability offences will have a specific defence of mistake of fact.

Strict liability offences are an efficient and cost effective deterrent for breaches of regulatory provisions. They are appropriate where the authority is in a position to readily assess the truth of a matter and that an offence has been committed. They can be dealt with by infringement notice which is a cheaper and less time consuming alternative to a court prosecution. Strict liability is beneficial where offences need to be dealt with expeditiously to ensure confidence in the regulatory scheme.

The necessity to prove intent affects the level of resources needed to investigate and prosecute. Evidence of intention or recklessness is often difficult to obtain in the absence of admissions or independent evidence. This in turn can reduce the effectiveness of using the prospect of prosecutions as a deterrent to impugned behaviour.

The provision for strict liability offences is consistent with other offences in the Construction Occupations (Licensing) Act 2004. Strict liability offences are also used in other jurisdictions including the Commonwealth. A tiered system of penalties can improve enforcement, provide flexibility and increase the range of regulatory options. There is an option to proceed under a fault liability limb of an offence if there is adequate evidence of the requisite mental element or under a strict liability limb where evidence of such intent is insufficient. Lower penalties for strict liability offences provide a safeguard for those affected.

Outline of Provisions

Part 1 – Preliminary

Clause 1 — Name of Act
This clause names the Act as the *Planning and Building Legislation Amendment Act 2011 (No 2).*

Clause 2 — Commencement
This clause provides for the bill's commencement. The Act commences on a day fixed by the Minister by written notice. If the Act has not commenced within 12 months of its notification day, it automatically commences on the first day after that period. Under subsection 3, section 79 of the Legislation Act does not apply which means, consistent with subsection 2, the Act will not automatically commence after 6 months.

The Minister can commence all or part of the Act at one time. This allows for the provisions that deliver the separate outcomes to be commenced separately, if necessary (refer *Note 2*).

Clause 3 — Legislation amended
This clause names the legislation that the bill amends.

Part 2 Building Act 2004

Clause 4 — Division 3.4 heading
This clause substitutes the existing heading to reflect the new requirement to erect a sign on the block for building work that must be done by a licensed builder.

The new heading to include the words "and building work signs". This is consequential to the insertion of new section 37B by clause 6.

Clause 5 New section 37 (2A)
The clause inserts a new requirement that if a sign is required to be erected then the builder, when applying for a commencement notice, must state that the sign was displayed as required or that they were reasonably satisfied that the sign was displayed.

The requirement to require a sign to be displayed is inserted by proposed new section 37A and section 37B.

The *Construction Occupations Licensing Act 2004* (COLA) provides the framework for licensed occupations, of which a builder is one, and how that licensed person must or should act. COLA section 55 (1) (b) provides that it is grounds for occupational discipline if a licensed person knowingly or recklessly gives false or misleading information. A note is included to inform the reader about the connection in the Building Act to COLA.

This means that if a licensed builder makes a false or reckless statement on the application for commencement notice then occupational discipline action can be taken.

Clause 6 — New section 37A and 37B
This clause inserts a new section 37A and 37B.

New section 37A – sign to be displayed for certain building work - provides that a licensed builder who carries out building work, required to be done by a licensed builder, on a parcel of land to display a sign while carrying out the work or for the period prescribed by regulation.

If building approval is not required then the sign requirement does not apply. The new requirements, therefore, do not apply to smaller scale developments that may be both exempt from the need for development approval and building approval such as garden sheds and clothes lines. Many exempt things can be done by the homeowner and do not impact on neighbours.

Presently, a sign is placed on a site only where major public notification of a development application is required under the Planning and Development Act. If a proposal does not require major notification, notification consists of letters sent to adjoining neighbours and if the proposal is in the code track, no notification at all is required.

Requiring a sign to be erected for all building work that requires building approval benefits the community. It means people can be better informed about building work taking place, or about to take place, around them. A sign will provide sufficient information for people who think they may be affected by the work to obtain further information about it. For example, it must include the builders name, license number, contact number and a brief description of the work and if the work is to be done in stages (and other prescribed detail). The sign however can also include other things like a company logo, etc. This means that the sign can advertise the builder's business as well as meeting a legislative requirement.

Other jurisdictions such as Queensland and Victoria already have a similar requirement.

New subsection 37A (1) provides that the sign is only required for work that is required to be done by a licensed builder. The *Construction Occupations (Licensing) Act 2004* (COLA) provides the licence framework for construction occupations and the Building Act provides for what type of building work must be done by a licensed builder. Together these Acts provide for who can do building work and how building work is done in the ACT. Section 15 of the Building Act prescribes that Part 3 of the Act does not apply to exempt work. The note refers to the relevant section in the Building Act.

New subsection 37A (2) provides that a sign must be displayed while the work is being done or if a regulation prescribes a period, for that period. This means, for example, that for some large developments done in stages over

many years, a regulation may prescribe that the sign must be displayed for the first six months and then at the commencement of each subsequent stage for a period of four months for each stage.

New subsection 37A (3) provides that the sign does not have to be displayed when work first commences if the work is required to be carried out urgently to address a risk of death or injury to a person or serious harm to the environment or significant damage to property. For instance, emergency services staff may require a building to be demolished if a building suffers significant fire damage. In this situation, the builder can commence work without a sign but must erect a sign as soon as practicable after commencement.

New subsection 37A (4) provides that the sign must comply with any requirement prescribed by regulation. Clause 7 inserts the requirements for the content and minimum size requirements. The content includes the builder's name, license number and a short description of the building works for example.

New section 37A (5) provides that if a sign is removed or damaged that the licensed builder must replace or repair the sign and the timeframes that apply. It is a demerit point offence not to repair or replace the sign within 2 days (or another period if one is prescribed) if it is damaged or removed. Demerit points are part of the compliance regime under COLA.

New section 37A (6) & (7) provides that a person commits an offence to damage, alter etc a sign. This is a strict liability offence.

COLA has other similar strict liability offences e.g. failure to return an identity card (issued under that Act) or advertises without details are a strict liability offence. The penalty unit is five.

New section 37B – Sign to be prescribed for building work in prescribed development - provides that a sign is required to be displayed for certain types of building work as prescribed and for the prescribed period. The effect of this provision is that it requires a sign to be displayed in relation to building work that will be carried out as well as when the building work is being done. In other words the sign must be displayed for a certain period before building work commences.

New subsection 37B (1) provides that the requirement to display a sign ahead of building work commencing is *prescribed* development and is also required to be done by a licensed builder. The note explains that the section does not apply to building work that is exempt under the Building Act.

New subsection 37B (2) provides that the sign must comply with any requirement prescribed by regulation and be displayed for the period prescribed by regulation.

The effect of this provision and those inserted into the Building (General) Regulation at clause 7 new section 30C means that for the types of development prescribed the sign must be displayed for 7 consecutive days in a 2 month period ahead of applying for the commencement notice. A commencement notice is required to be issued before building work can lawfully commence. In the application for a commencement notice the licensed builder must state that the sign requirements have been complied with. It is an offence to make a false or reckless statement in the application.

This means that neighbours will know ahead of work commencing what type of building is going to take place and will have contact details for the licensed builder and certifier.

New subsection 37B (3) provides that if a sign is removed or damaged that the licensed builder must replace or repair the sign and the timeframes that apply. It is a demerit point offence not to repair or replace the sign within 2 days (or another period if one is prescribed) if it is damaged or removed. Demerit points are part of the compliance regime under COLA.

New section 37B (4) & (5) provides that a person builder, commits an offence to damage, alter etc a sign. This is a strict liability offence.

COLA has other similar strict liability offences e.g. failure to return an identity card (issued under that Act) or advertises without details are a strict liability offence. The penalty unit is five.

Part 3 Building (General) Regulation 2008

Clause 7 - New division 3.2A
This clause inserts new sections 30A – 30C.

New section 30 (A) provides the information referred to in new subsection 37A (4) and subsection 37B (2) inserted by clause 6 above. It sets out the requirements for the sign for building work. There is a minimum size of 600mm X 900mm and the sign must include the name and contact details of the licensed builder and certifier, if a development application has been approved that detail, if no development application was required because the development was exempt from needing development approval that detail, or if the status of the development is not determined that detail i.e. does it need development approval or not?, a description of the building work and the stage of the building work, if applicable. The sign must also include the street address. This makes it clear the sign applies to that particular address. On some occasions, the building work may cover a large parcel of land which may include a number of street addresses in which case all of the addresses must be noted. The sign must be of waterproof material and placed prominently on the parcel of land. All these requirements are designed to make the sign informative, durable and visible.

New section 30B provides for the types of development that requires a sign to be displayed ahead of the building work commencing. The type of

developments are certain developments that are exempt from requiring development approval (under the *Planning and Development Act 2007*) and are: compliant single dwellings (s1.100 of schedule 1), otherwise non compliant single dwellings (s1.100A) and the demolition of single dwellings (s1.100B) if the development is not required to be carried out urgently or a garage mentioned in s1.45 of schedule 1 with a certain floor area. These developments are listed in schedule 1 or the Planning and Development Regulation.

New section 30C provides the period that a sign, for the development prescribed, must be displayed for. Prescribed developments are those prescribed at new section 30B. The sign must be displayed for 7 consecutive days in a 2 month period before applying for a commencement notice.

Part 4 Construction Occupations (Licensing) Regulation 2004

Clause 8 — Demerit grounds for occupational discipline Schedule 2, pt 2. 1, new items 2.1.16A and 2.1.16B

This clause inserts two new demerit grounds for occupational discipline in schedule 2 of the *Construction Occupations (Licensing) Regulation* (COLR). COLR together with the *Construction Occupations (Licensing) Act 2004* provide the framework for licensing of construction occupations and an occupational discipline regime. A licensed person can be given a demerit point on their licence for failure to do certain things. A person's licence can be suspended or cancelled if sufficient demerit points are accrued.

The offences refer to failing to display the sign and failing to replace or repair the sign. The penalty is 1 demerit point which is the lowest available.

Part 5 Magistrates Court (Building Infringement Notices) Regulation 2008

Clause 9 – Schedule 1, pt 1.1, new items 1A and 1B

The clause inserts before existing item 1 two new items. These items are the offence provisions that have been inserted into the *Building Act 2004* by clause 6 at new section 37A and 37B. New section 37A and 37B provide that it is an offence if a person removes or damages a sign that is required to be displayed. The offence attracts five penalty units.

The *Magistrates Court (Building Infringement Notices) Regulation* provides the mechanism to issue an infringement notice for the offence and the value of the penalty units for example this offence attracts a $100 penalty value. Other offences under the Building Act or regulation attract $1,000 or $1,200 penalty value.

Part 6 - Planning and Development Act 2007

Clause 10 — New sections 138AE and 138AF

This clause inserts new sections 138AE and 138AF in the Planning and Development Act and provides the framework for new pre DA consultation requirements.

Since October 2010 government and industry have been trialling a process that requires a developer to consult with the community about certain large scale developments. This process has been working effectively and this bill formalises that process.

The triggers to require consultation have been adjusted to require consultation on more developments. The exclusion that applied to the city centre and town centres has been removed. This change reflects the changing make-up of the city centre and town centres. Previously, these areas were predominately commercial areas but this has been slowly changing over the years. Canberra city and town centres now have many residential apartment style buildings and it is reasonable that people living in these areas be consulted on certain proposed developments.

The new process will require a developer to consult with the community and to provide a written notice about that consultation with the application for development approval. A guideline may provide for how that consultation must happen and can require different consultation requirements commensurate with the scope and scale of the proposed development and the make-up of the relevant community.

While the developer must do the consultation prescribed they will also be able to do further consultation at their discretion. Early engagement with the community has the capacity to be beneficial for both the community and the developer.

Consultation between the community and the developer is different to notification that is required on a development application. The new pre DA consultation process happens before a development application can be made and is an interactive process between the developer and the community. It is separate and independent to notification. This means that a member of the community may consult with the developer and if and when a development application is made, may also be notified on that development application. Discussions and information provided during the consultation process does not form part of the development assessment process other than a written notice must be provided indicating consultation took place and its form, for example, letter box drops were done. Consultation and notification do not work together and serve two very different purposes. A developer does consultation and government manages notification.

Because the very nature of this pre-DA consultation process is to consult with the community developments in new *estate* areas are being excluded from this requirement. This is because in new estates there is no community when the area is developing and it may be some time or even years before there is an established community in the area to consult. The regulation includes

maps that define the areas that are excluded from the pre-DA consultation requirements. The areas are where future new estates are indentified.

New subsection 138AE (1) provides that if a development proposal (a prescribed development proposal) is prescribed by regulation then new section 138AE applies to that development.

Subsection (2) provides that community consultation must be done before lodging a development application for the prescribed development proposal. It also provides that if a guideline is made under new section 138AF about how consultation is to be done that the consultation must be done in accordance with the guideline. If the consultation is not done in accordance with the guideline then an application for development approval cannot be made.

Subsection (3) provides that if during community consultation the development proposal is substantially revised then the community must be consulted on the revised proposal. For example, if a developer consulted with the community on a prescribed development proposal which had a mix of community, commercial and residential uses and during consultation the prescribed development proposal was changed to only include commercial and residential uses then further consultation must be done. In this way, the provisions protect the community from being consulted on one proposal and a development application being made on another substantially different proposal.

Subsection (4) provides that a development application for the prescribed development proposal must be accompanied by a written notice about the community consultation. A form can be made for the notice and if made, must be used. A form may detail the requirements of the guideline for how the consultation must be done and who must be consulted. Without the notice, an application cannot be made for development approval.

Subsection (5) provides that a decision on a development application is not invalid because of a defect in consultation. The Planning and Development Act already has similar provisions that operate for the development application process. The protection of the development approval means that proponents can proceed with certainty.

New section 138AF provides that the planning and land authority may make guidelines about how a proponent must or may consult with the community. For instance, a guideline could require a proponent to consult with the relevant community council and convene a general community meeting.

Subsection (2) provides that a guideline is a notifiable instrument. This means the guideline will be easily accessible to all through the ACT Legislation Register. Proponents can access the requirements they need to meet and the community can ascertain the types of consultation required for certain developments. Community councils and other community groups can use this information to monitor proposed developments within their community.

The bill can commence in stages in accordance with clause 2. It is proposed that the provisions relating to pre DA consultation will not commence until the guidelines have been made. The guidelines will be able to set the minimum requirements for consultation and may set additional options. For example, subject to further consideration, letters to neighbours could be set as a minimum requirement.

Clause 11 — Form of development applications Section 139 (2), new notes

This clause inserts new notes at section 139 (2). Section 139 provides for those things that must be included in a development application. Note 4 alerts the reader to the new requirement to include the written notice about community consultation in the application.

Note 5 provides that if a form is made then the form must be used. The Legislation Act provides that a form is only completed if something required to be provided or required to be attached is provided or attached. Therefore, a development application form is only *completed* if the form about community consultation is attached.

Part 7 Planning and Development Regulation 2008

Clause 12 — Section 20 heading

This clause amends the existing heading to remove the reference to *par (c)*. This is necessary because par (c) was removed from s133 of the Planning and Development Act by the *Planning and Development Amendment Act 2010* A2010-4, section 13.

Clause 13 — New part 3.1AA

Clause 13 inserts a new Part 3.1AA in the Planning and Development Regulation. New part 3.1AA prescribes the types of development for new section 138AE of the Planning and Development Act which is inserted by clause 10 of this bill.

New section 20A (1) lists the development proposals that require community consultation. They are:

- A building for residential use with 3 or more storeys and 15 or more dwellings;
- A building with a gross floor area of more than 5000m^2;
- A building or structure more than 25m above finished ground level.

Dwelling is defined at section 5 of the Planning and Development Regulation. For the types of development proposals mentioned in s 20A (1), a dwelling may be better understood within the community as a unit or apartment.

Subsection (2) provides for when subsection (1) does not apply. There are two circumstances where subsection (1) does not apply. They are:

- if the prescribed development proposal is in an industrial zone. This is because developments in an industrial zone typically include

other commercial businesses. Consultation may cause commercial-in-confidence issues for proponents.

- If the prescribed development proposal is in an area defined in bold in the maps included at Schedule 1B.
  These maps reflect where new estates are expected to be developed over the coming years. Typically these new estates can take many years to develop or fill-in. Because the purpose of the pre-DA consultation is to *consult* with the community it is difficult to do this in new estates. This is because initially there will be no community to consult and it will take a period of time for the community to establish. Further persons moving into these new estates also recognise that development will continue to happen for many years to come and know the types of things proposed to be built in the new estate. That is they know where the shops, medium residential units, community parks, schools etc are proposed to be built.

Subsection (3) provides that the definition for ***residential use*** is defined in the Territory Plan.

Clause 14 — Schedule 1, new section 1.71
Clause 14 inserts a new exemption development type. New section 1.71 provides that a development that is a sign required under the Building Act (see clause 6) is exempt from the need to have development approval. This is reasonable because putting up a sign required by legislation should not require further approvals.

There is an existing exemption that covers signs but this is more about where the lessee seeks to put-up a sign. The new exemption makes it clear that building work signs are exempt.

Clause 15 new schedule 1B
Clause 15 inserts a new schedule 1B. Schedule 1B contains the maps that define the areas or land that are excluded from needing to undertake the pre-DA lodgement consultation.

The maps reflect where new estates are expected to be in the future. These maps will change over time as new estates become established urban areas. As the maps are revised a developer building in those areas, no longer included in the maps, will need to undertake pre-DA consultation.

Part 8 Plastic Shopping Bags Ban Regulation 2011

Clause 16 – Section 5
Clause 16 also inserts a new subsection (2). Subsection (2) provides that Legislation Act, section 47 (6) does not apply. This makes it clear that the Standard does not need to be published on the ACT Legislation Register. Publication of the Standard on the Register is not practical as the Standard is subject to Copyright and cannot be published on the Register without express permission.

Subsection (1) is amended to make it clear that the Standard is in-force from time-to-time. This does not change the effect of the existing subsection (1).