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Committee Secretariat  
Modernising the National Construction Code (NCC) Project Team  
Department of the Treasury  
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Dear Committee Secretariat

### **Streamlining and modernising the National Construction Code**

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to comment on the Department of the Treasury's consultation on streamlining and modernising the National Construction Code (NCC).<sup>1</sup>

Small businesses are the engine room of the Australian economy. They comprise approximately 97% of all Australian businesses, employing around 39% of the private sector workforce and contributing approximately one-third of Australia's GDP.<sup>2</sup> While small business is often defined as having an annual turnover of \$10 million or less, about 92% of these have a turnover of less than \$2 million.<sup>3</sup> This highlights that most Australian small businesses operate on a small or micro scale with resources and capabilities that differ markedly from those of larger enterprises.

Small and family businesses form the backbone of the construction sector (98.5% of 1.3 million Australians)<sup>4</sup> and are disproportionately affected by regulatory complexity and business-to-business 'white tape'. Streamlining and modernising the NCC is therefore an economic and productivity imperative, not merely a technical exercise.

The Housing Industry Association's 2026 Small Business Conditions survey<sup>5</sup> found that small builders are increasingly strained by the complexity of the NCC and other regulatory burdens. While these businesses are responsible for roughly two-thirds of Australia's new homes, the survey highlights that 'red tape' is severely impacting productivity and the ability to meet national housing targets. Of the 306 surveyed respondents across Australia:

- 54% employ 0–5 staff, confirming the sector is dominated by very small builders.

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<sup>1</sup> Department of the Treasury, *Streamlining and modernising the National Construction Code: Discussion Paper*, Treasury Consultation Hub, 2025, accessed 19 January 2026.

<sup>2</sup> Australian Small Business and Family Enterprise Ombudsman, *Small Business Data Portal: Number of small businesses in Australia; Contribution to Australian Gross Domestic Product; Contribution to Australian Employment*, ASBFEO, Australian Government, 2025.

<sup>3</sup> ASBFEO, *Number of small businesses in Australia*, ASBFEO, July 2025, accessed 11 February 2026.

<sup>4</sup> Wilson, T and Brooks, C, *Paper presented at the ABS–RBA Joint Conference 2025*, Reserve Bank of Australia and Australian Bureau of Statistics, 2025, accessed 16 February 2026.

<sup>5</sup> Housing Industry Association (HIA) (2026) *2026 Small Business Conditions survey*, HIA, December 2025, accessed 20 February 2026.



- 59% do not expect higher profits in 2025–26, and 68% have considered scaling back or closing due to red tape and compliance burdens.
- 63% report recent NCC changes have had a moderate to major impact on their business, primarily through higher costs, complexity, and delays.
- Compliance burden:
  - 56% have taken on additional staff or hours for regulatory tasks,
  - 53% spend 5+ hours per week on compliance (32% spend 10+ hours)
  - 45% spend over \$10,000 per year on compliance,
  - 88% report increased personal stress due to red tape (mental health).
- Planning delays: 88% report planning approvals take longer than 8 weeks, with 33% exceeding 6 months, directly delaying housing delivery.

The ASBFEO advocates for this NCC reform to be guided by a ‘think small business first’ principle where regulation is right-sized, risk-based and digitally enabled so that compliance becomes a by-product of good practice rather than a barrier to participation, and a constraint on business viability and growth.

Our submission comprises the following proposals:

1. harmonise and simplify compliance requirements across jurisdictions (local, state and federal) where possible, only differentiating where it must,
2. digital integration (including adopt digital tools to make compliance easier and reduce duplication) of the NCC, including exploring the adoption of Rules as Code (RaC),
3. develop and endorse standardised sub-agreements and adopt right-sized regulation to reduce ‘white tape’,
4. promote a sector culture of ‘right-sized’ regulation.

Together, these proposals will reduce the compliance burden on small business, lift productivity and support housing delivery while maintaining safety and quality.

### **Key issues for small businesses operating under the National Construction Code**

#### Reducing regulatory ‘red tape’

Evidence from industry surveys highlights the disproportionate impact of the NCC complexity on the sector’s small businesses. Unlike larger firms, small businesses typically do not have dedicated compliance, legal or human-resources teams. As a result, frequent and complex code changes translate directly into time away from productive on-site work. Simplifying the NCC, particularly its structure, language and administrative requirements is essential to reducing the compliance burden on small businesses enabling them to direct more of their resources to business activity.

#### Streamlining planning and approvals

Delays in planning and approval processes remain a significant drag on productivity and housing supply, often driven by complex regulatory intersections across the NCC, state and local planning systems. Industry evidence indicates that 88% of builders’ experience approval timeframes



exceeding eight weeks, with one in three facing delays of more than six months.<sup>6</sup> These delays impose holding costs and financial risk that small businesses are least able to absorb. Modernising the NCC must therefore include streamlined, easy-to-use and cost-effective approval pathways that reduce uncertainty and accelerate project commencement.

To operationalise this, the ASBFEO encourages state and local government entities to engage with sector stakeholders to identify pain points and opportunities to streamline inspection and approvals processes, with the objective of improving timeliness and reducing the regulatory cost of approvals. We highlight initiatives such as Western Australia's Small Business Friendly Approvals Program and Victoria's Better Approvals for Business Program as examples of constructive consultation, co-design and piloting to identify, design and implement better regulation.

#### Managing the impact of constant regulatory change

Small businesses consistently report that the frequency of NCC amendments creates uncertainty, retraining costs and repeated process changes. Moving to a five-year amendment cycle, as advocated by industry, would provide greater regulatory stability, allow businesses to plan with confidence and reduce the need for continuous catch-up. Greater certainty would enable small businesses to redirect time and resources from regulatory interpretation toward construction activity and workforce development.

#### Supporting technology and innovation

Streamlining and modernising the NCC is closely linked to the uptake of modern methods of construction (MMC), digital tools and innovation. Excessive complexity and inconsistent interpretation of requirements act as barriers to adoption, particularly for small firms. A more usable, digitally enabled NCC would remove these barriers, support innovation at scale and assist small builders to lift output, contributing to national housing supply targets, including the delivery of 1.2 million homes by 2029.

#### Improving regulatory harmonisation across jurisdictions and levels of government

Businesses operating across jurisdictions face duplicative and sometimes inconsistent regulatory requirements arising from misalignment between Commonwealth, state and local government frameworks. Modernising the NCC provides an opportunity to reinforce the ambition of a genuinely national construction standard that harmonises requirements where it can and only differs where it must. This approach would reduce unnecessary duplication and improve coordination across all three levels of government, leading to lower compliance costs, reduced confusion and greater workforce mobility, while maintaining safety and quality outcomes.

#### **Small business context and the case for reform**

Despite small and family businesses forming the backbone of the construction sector, regulatory design too often defaults to a one-size-fits-all model calibrated to large corporates. The NCC, now exceeding 2,000 pages, exemplifies this approach. Its complexity, frequent amendments and jurisdictional variation impose disproportionate learning, training and administrative costs on

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<sup>6</sup> Housing Industry Association (HIA) (10 February 2026) *HIA 2026 small business conditions survey*, HIA, accessed 20 February 2026.



small subcontractors and regional builders. These burdens manifest as both statutory ‘red tape’ and non-statutory ‘white tape’ flowing through contracts and procurement practices.

The ASBFEO supports the Government’s objective to streamline and modernise the NCC to improve usability and compliance efficiency, and to enable modern methods of construction. However, without applying a ‘small business first’ lens, reform risks entrenching existing burdens in a new digital form. A modern NCC must therefore be designed for the typical user in the construction industry: a small business owner-operator with limited administrative capacity.

### **Case Study: The Subcontractor’s Deadweight Loss**

Consider a family-owned businesses with five employees. To secure a contract on a \$15 million commercial build, the owner was required to navigate a 60-page standard-form contract that shifted all site-specific risks—including latent ground conditions—onto her business.

The owner was mandated to use three separate proprietary digital portals to upload the same insurance certificates and safety inductions already held by state regulators. This ‘white tape’ added 12 hours of unpaid administrative work before a single pipe was laid. When the NCC was updated mid-project, the lack of machine-readable data meant the owner had to pay a consultant \$4,000 to verify that the business’s materials still complied with new thermal performance standards. This is a ‘productivity tax’ that stifles small business dynamism and increases the cost of housing.

### **Digital integration: from analogue code to Rules as Code**

The current NCC remains largely analogue in form. Even where digital tools exist, compliance often requires manual interpretation, duplication of data and repeated engagement with consultants. The ASBFEO proposes the Government explore transitioning the NCC to a machine-readable, Rules as Code (RaC) framework, a modernising feature of building regulation that has been adopted in a number of overseas jurisdictions (see Case study below). The benefit of a RaC framework is that it would maintain the authoritative legal text of the NCC while creating an executable version that can be embedded into software used by builders, designers and certifiers.

Digitising the NCC in this way would allow compliance checks to be automated at the point of design and procurement, substantially reducing administrative hours for small businesses. Importantly, RaC would improve regulatory certainty by reducing interpretive ambiguity and jurisdictional divergence. For small firms, this would translate into fewer disputes, lower professional fees and faster project delivery. Digital integration should be accompanied by open standards and application programming interfaces (APIs) to ensure small software providers can innovate, rather than entrenching proprietary systems that favour large incumbents.

In addition to this reform the ASBFEO advocates for standards that are required to be complied with under the NCC—in other words, are legally enforceable—to be made available to businesses free of charge and not locked behind a paywall on the basis of cost recovery and intellectual property. This would reflect the overriding public interest in providing free and open access to legally enforceable standards.



### **Case study: New Zealand’s Building System – Rules as Code<sup>7</sup>**

The New Zealand Government’s adoption of Rules as Code (RaC) via the Ministry of Business, Innovation and Employment (MBIE) offers a powerful blueprint for modernising building regulations. By transforming the Building Code into a machine-readable format, compliance is integrated directly into design tools, shifting verification ‘upstream’. For small construction firms, this eliminates manual interpretation and late-stage disputes – burdens that typically drain limited administrative sources.

Critically, RaC functions alongside existing legislation to preserve legal certainty while fostering innovation through open standards. This prevents proprietary monopolies, allowing diverse software providers to build compliant tools. Adopting a similar RaC approach for the NCC would transform it from a static document into a dynamic regulatory asset, boosting predictability and efficiency for small businesses without compromising safety or quality.

This experience demonstrates that digitising a building code is a regulatory design reform. Applying a similar RaC approach to the NCC would improve clarity, predictability and compliance efficiency for small businesses while maintaining safety and quality outcomes.

### **Standardised sub-agreements and right-sized regulation to reduce ‘white tape’**

A significant compliance burden faced by small businesses in the construction sector does not arise directly from the NCC itself, but from contractual flow-down imposed by larger entities. Head contractors and developers frequently require subcontractors to comply with bespoke standards, reporting templates and assurance processes that exceed statutory requirements. This ‘white tape’ is costly, duplicative and often disconnected from genuine risk management.

The ASBFEO supports HIA’s recommendation for the development and endorsement of standardised NCC-aligned sub-agreements, as the HIA has previously advocated. These templates would clearly distinguish between statutory obligations and voluntary or commercial requirements and limit the cascading of disproportionate compliance tasks. Standardisation would improve clarity, reduce negotiation costs and create a more level playing field for small businesses competing for work. It would also support consistency across jurisdictions and projects, reinforcing the benefits of NCC modernisation.

Small business subcontractors can be particularly vulnerable to ‘white tape’ where they sit several tiers removed from the principal contracting party. In such arrangements, risk and responsibility are often pushed down the supply chain without commensurate control or reward. Where multi-tiered contracting is necessary for a construction project compliance requirements should be proportional to business size and risk profile, a right-sized approach to regulation and that supports compliance while reducing the risk of deadweight loss through over-compliance.

This NCC reform process presents an opportunity to embed in the NCC proportionality-by-design, ensuring that small businesses are not required to meet the same documentary and reporting thresholds as large corporates for low-risk activities.

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<sup>7</sup> New Zealand Ministry of Business, Innovation and Employment (MBIE), *Rules as Code: What it is and how it can help improve regulation*, New Zealand Government, accessed 16 February 2026.



### **Case study: United Kingdom (UK) – standard contracts to reduce supply-chain burden<sup>8</sup>**

The UK provides a relevant example of how standardised contracting frameworks can be used to reduce unnecessary compliance burden in the construction supply chain. The UK's Construction Playbook demonstrates that standardised contracting is a powerful tool for slashing compliance burdens and boosting productivity. By mandating consistent contract forms, the UK has successfully reduced fragmentation and stopped the disproportionate 'flow-down' of risk to small subcontractors.

For small businesses, this model provides predictability. It eliminates the need for costly, repetitive legal reviews and prevents 'white tape'—those non-statutory contractual demands that exceed regulatory intent. This approach proves that standardisation doesn't lower benchmarks; it makes compliance clearer and more proportionate. Integrating similar principles with NCC modernisation would remove hidden regulatory hurdles, ensure fairer risk allocation, and empower small firms to compete on a level playing field.

### **Promote a sector culture of 'right-sized' regulation**

The ASBFEO also proposes that the Government promote a culture of right-sized regulation by encouraging larger operators in the construction sector to assess where, in meeting requirements under the NCC, it is unreasonably adding to the compliance burden on small business subcontractors by imposing documentation, reporting or other requirements that are unnecessary or disproportionate to the related risk.

Such an assessment would help identify where the compliance burden on small business is being weighed down through a misallocation of project risk and the unnecessary use of non-statutory practices, including excessive documentation, proprietary platforms and duplicative assurance. The objective is not to remove necessary protections but to ensure compliance requirements are proportionate and achieve the intended outcome. For small businesses, it would signal a clear commitment to reducing the compliance burden that is a drag on productivity across the sector.

### **Case Study: UK identifying non-statutory regulatory burden through systemic review<sup>9</sup>**

The UK's Better Regulation Framework offers a vital blueprint for addressing non-statutory burdens that exceed legislative intent. By distinguishing between formal law and the 'white tape' created by procurement practices and administrative guidance, the UK has identified that the heaviest compliance costs often stem from implementation rather than the statutes themselves.

For small businesses, this approach reveals how burden accumulates through interpretation and contractual flow-down. Systematic reviews of these 'shadow and/or quasi' regulations allow governments to strip away complexity that adds cost without public benefit. Adopting a similar white tape review alongside NCC modernisation is essential to ensure regulatory intent isn't

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<sup>8</sup> UK Government, *The Construction Playbook: Government guidance on sourcing and contracting public works projects and programmes*, Cabinet Office, 2022, accessed 16 February 2026.

<sup>9</sup> UK Government, *Project Bank Accounts: Guidance for public sector clients*, Cabinet Office, 2020, accessed 17 February 2026.



undermined by duplicative reporting and proprietary systems—burdens that currently stifle the small and family businesses in the construction sector.

If you require any further information, please do not hesitate to contact the Policy and Advocacy team via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely

**The Hon Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman