



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM
Mr Jeremy Hanson MLA (Chair), Mr Michael Pettersson MLA (Deputy Chair),
Ms Suzanne Orr MLA, Mr Mark Parton MLA

Submission Cover Sheet

Inquiry into Government Procurement (Secure Local
Jobs) Amendment Bill 2018

Submission Number: 9

Date Authorised for Publication: 12 September 2018



Australia's property industry

Creating for Generations

Property Council of Australia
ABN 13 00847 4422

Level 4, 10 Moore Street
Canberra ACT 2600

T. + 61 2 6276 3601

E. act@propertycouncil.com.au

propertycouncil.com.au

[@propertycouncil](https://twitter.com/propertycouncil)

Mr Jeremy Hanson MLA
Chair
Standing Committee on Economic Development and Tourism
by email: LACommitteeEDT@parliament.act.gov.au

Inquiry into Government Procurement (Secure Local Jobs) Amendment Bill 2018

Response provided by the ACT Division of the Property Council of Australia

Dear Mr Hanson

Thank you for the opportunity to provide comments and feedback on the Government Procurement (*Secure Local Jobs*) Amendment Bill 2018 (the Bill). We also note our support for the submissions provided to the Inquiry by the Canberra Business Chamber and the Master Builders Association (ACT).

The ACT Property sector is the second biggest industry in Canberra – behind the public and health services – employing 1 in 7 Canberrans – driving economic growth and renewal across our city. Our sector is critical to the diversity of the economy and contribute 57.5% of all government revenue which funds our schools, hospitals, municipal, community and government services. Our contribution to renewing our city at a time of transformation and growth is immense.

Many of our members work on a daily basis with members and officials within the government to drive development and renewal across the city – from townhouses to mixed use developments, multi-residential sites and commercial and retail projects – to whole estates and suburbs and precincts from the local shops to the high-rise developments in our town centres.

Our members include developers, financiers, architects, property law specialists, town planners, heritage consultants, universities, government agencies at both the Federal and Territory level and local utilities.

Our advocacy priorities include:

- **Encouraging urban renewal** that is vital to the future of Canberra's economic and social wellbeing.
- **Planning and Sustainable Development polices** which are outcomes focused.

PROSPERITY | JOBS | STRONG COMMUNITIES

- **Transport Orientated Development** that delivers density and liveability in the major transport corridors and in our town centres.
- **Housing choice for all Canberrans** including retirement living and affordable housing.
- **Taxes and charges which are fair**, administered efficiently and encourage development where it is needed.
- **Long term infrastructure planning** which will help transform our city.

It is with these priorities in mind, that we provide the following response to the Bill.

Summary of key issues

We support the intention of ensuring workplace standards and obligations are met by all parties involved in contracting and procurement processes. We do not however support this Bill and do not believe it will deliver more local jobs.

Our key issues with the Bill include:

1. We are concerned that that there is a potential conflict with federal legislation.
2. The Bill lacks specific detail on who must be compliant with the code – in particular, we seek, reassurance that the exemption contained in Schedule 1, 12AA extends to all professional services¹ contracted in the course of design, approval or construction of projects within the ACT. We also seek clarification on its application to leasing and accommodation transactions.
3. That the cost of property related development in Canberra continues to rise, and the regulation and burden placed by the Territory on the private sector through this Bill, potentially acts as a disincentive to development.
4. Privacy concerns for the types of standards and requirements that be included in the code (subsection 22M(2)).

If the Bill is passed by the ACT Legislative Assembly we would like to see the following occur:

¹ As defined by the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006
<http://abs.gov.au/ausstats/abs@.nsf/Latestproducts/8464D4BB38214E7DCA25711F00146E44?openDocument>

- A need for transition arrangements and delayed commencement to allow for education of the property sector.
- That industry representatives from peak bodies / associations be invited to participate in the Local Jobs Code Advisory Council to oversee, monitor and advise the Minister on the operation of the Code.

Key issues in detail

The Property Council indeed welcomes the commitment by the ACT Government to ensure a fair and transparent procurement processes for “territory funded work” which also ensure that workplace standards and obligations are met.

We note that it is understood that the Bill attempts to deal with these issues as the Commonwealth has through the *Code for Tendering and Performance of Building Work* 2016 (the Building Code) (Cth), and the *Fair Work Act 2009*, and state up front that we remain concerned that there is a conflict with this federal legislation. Many of our members already have to meet the rigorous compliance requirements of the Commonwealth, and adding another prequalification audit regime creates yet another burden on already compliant organisations within the property sector.

We also note that despite its name, the Bill does not prescribe local (Territory or regional) content in procurement, and that the Bill deals namely with construction work as defined under the WHS Reg 2011, building or other cleaning services, traffic control services and security services - many of those whom meet this definition may be members of the Property Council of Australia.

We believe that the Bill in its current form lacks specific detail about the practical implications for our members. Our members are specifically concerned with what appears to be an attempt to increase red tape and increase the cost of property related development.

The Property Council of Australia believes further clarification should be contained either within the definition or regulations around who would be captured by ‘professional services’.

As our membership demonstrates, lawyers, architects, commercial owners, building/ facilities managers, town planners and heritage consultants could fall within the meaning of ‘professional services’ who may be engaged as sub-contractors during the life of a construction project. Whilst we note the exemption which has now been

included under Schedule 1, 12AA (1), the Property Council remains unclear about the compliance required by such of those members, and whether they too would be subject to a prequalification audit regime – the *Secure Local Jobs Code Certificates* (Code Certificate).

We also note that whilst the Bill States that work needs to be primarily related to construction to be captured – we seek clarification that the Code does not apply to leasing or accommodation transactions, including development undertaking for leasing, agreements for lease, fit out works etc.

As mentioned above, the ACT Property sector already contributes significantly to the ACT economy – with the sector contributing through property related taxes and charges approximately 57.5% of all government revenue.

It is critically important that Canberra remains an attractive and competitive environment to invest and do business in. We agree with the MBA and the CBC Submissions that a reduction of available contractors as a result of the increased red tape associated with tendering for ACT Government contracts, would be an extremely poor outcome of this Bill.

We are concerned that the contractors who will be either willing or eligible to perform work for the ACT Government will be significantly reduced and this is likely to disproportionality affect small businesses² - who contribute greatly to the diversity of the ACT economy and the broader community. We are concerned that this reduction in competition will lead to increasing costs of infrastructure and development at time when significant investment is needed as the city renews to meet the needs of a growing population.

Our members have also expressed concerns for the types of standards and requirements that be included in the code (subsection 22M(2) – and that it may require an entity to give the territory entity and the registrar details for contractor and subcontractors and impose record keeping and access requirements associated with that information. We also note that the expanded right of entry conditions do not allow for right of reply and reasonable time in which to respond – protections afforded by the federal legislation.

Finally – we believe that there is a need for transition arrangements and commencement date of the Bill, given its current form is too ambitious, and do not provide for a thorough education and information campaign of the industry should this Bill be passed the ACT

² As noted by the Canberra Business Chamber, Canberra's private sector is predominately (97%) comprised of small business owners who employ less than 20 employees.

Legislative Assembly. We also would like to take this opportunity to nominate a representative to participate on the Local Jobs Code Advisory Council to ensure a smooth transition to the operation of the Bill.

Once again, thank you for the opportunity to respond to the Bill through the Inquiry. Don't hesitate to contact me should you require further information.

Yours sincerely

A black rectangular redaction box covering the signature of Adina Cirson.

Adina Cirson
ACT Executive Director

