



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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

## Submission Cover Sheet

Inquiry into Building Quality in the ACT

**Submission Number: 55**

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Dear Standing Committee

**SUBMISSION TO ACT LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON ECONOMIC  
DEVELOPMENT AND TOURISM INQUIRY INTO BUILDING QUALITY IN THE ACT**

**INTRODUCTION**

This submission is by the Kingston and Barton Residents Group (KBRG), which is a community association representing the residents of Kingston and Barton, and Griffith and Forrest residents south of Canberra Avenue. The KBRG is committed to enhancing the social, residential, environmental, cultural and economic qualities of the area to ensure the highest standards of livability.

KBRG commends the committee for undertaking this inquiry and looks forward to participating in the public sessions regarding this matter. Our comments on the matters raised in Inquiry's Terms of Reference at this stage are below.

**SUBMISSION**

Complaints about builders and building work or defects in residential buildings and rectification and other associated costs have been increasing over recent years. The KBRG notes that the ACT Government through the Environment Planning and Sustainable Development Directorate (EPSDD) has been working to address these issues and there have been some changes to legislation as well as a substantial report: *"Improving the ACT Building Regulatory System November 2015"*. That report identified the following main areas for reform:

1. Pre-application guidance and review at design stage for projects including residential apartments
2. Greater supervision and quality assurance by licensed builders and increased government inspections throughout construction stages
3. Strengthening the licensing system for builders and building surveyors
4. Improving building contract provisions, extending statutory warranties, limiting progress payments and regulating performance of contractors
5. Ensuring security of project funding to protect subcontractors and owners from builder's insolvency etc
6. Alternative dispute resolution mechanisms

These are all good, substantive issues but progress on introducing meaningful reforms to date seems to have been mixed. A useful *"Schedule of Reforms"* is available through the EPSDD website under the heading *"Current Projects – ACT Building Regulatory System Review"*.

From the *Schedule of Reforms* we note, in relation to the main areas for reform from above:

1. *New guidelines for design documentation and consequential amendments to the building approval form (being?) introduced.* However, it is proposed **not to pursue "at this stage" a**

***design review process to provide an independent review of proposed plans for apartment and complex buildings before a building approval application is made.***

In our (KBRG) view, it is not surprising that building practitioners do not support this proposal, which probably makes it even more important to put an effective pre-application process for building approval into place. It seems to us that adding such a requirement to the pre-DA process (as suggested in the Schedule) would NOT be appropriate as the timing, kind of documentation and issues to be considered are different for DAs and BAs. We strongly support, however a Design Review Panel, independent of EPSDD, considering sketch plans for development proposals as early as possible in the process. We understand a Design Review Panel jointly chaired by the Chief Planner of the National Capital Authority and the ACT Government Architect is currently being trialled for significant projects and that this is likely to become a mandatory requirement.

2. *New guidelines and codes of practice for inspections by builders and building certifiers (being?) developed. However, an expanded **government auditing and inspection system** is shown in the Schedule as “**Medium-term**”, but the comment is made: “**Establishing an effective risk-based government auditing and inspection system for regulated building certification and building work is high priority and fundamental to the effectiveness of the reforms. Work is already underway to move to this model, however establishing the necessary technical capacity to fully incorporate high-risk and complex buildings is a longer term project.**”*

The KBRG is concerned that, despite this being identified as “**high priority and fundamental to the effectiveness of the reforms**” the work required to move to this model may not be being adequately resourced or treated with appropriate urgency.

3. *New builders licensing mandatory qualifications declaration developed and enacted. New assessments designed for class A and B licenses. Existing assessment for class C expanded to include management, supervision and other obligations. “**Medium-long term**” actions include “**Consider introduction of other forms of assessment after review on 6 months of operation of the written assessment if required.**”*

Was this 6 month review carried out? If yes, what was the result?

*Additional provisions for corporation and partnership licenses to ensure that nominees are appropriately qualified and able to carry out the required functions. “**Medium-long term**” actions include “**Implementation of mandatory qualifications for corporate and partnership licenses, potentially including financial assessment.**”*

Why are these not regarded as high priority actions?

*New building surveyors licensing requirements including assessments and mandatory qualifications. “**Medium-long term**” actions include “**Expand mandatory qualifications for new building surveyor licence categories to include completion of the online course.**”*

This course appears to have been developed but not deployed. Why not?

4. *Building Act amended to allow regulations to prescribe requirements for contracts for residential building work.*

What progress has been made on enacting the regulations and associated actions, eg. changes to auditing processes?

*Building Act amended to expand statutory warranties to all class 2 residential and class 3 serviced apartments.*

*Building Act amended to allow for prescribing maximum progress payments (ie. for work completed only).*

What progress has been made on developing regulations and educational materials?

5. *Legislative amendments for dealing with corporate licensees with serious compliance issues and to reduce 'phoenixing'.*

What progress has been made on developing operational policies and administrative processes for considering applications, improving information capture, arrangements for reporting and receiving information from other regulators, expansion of rectification and other relevant powers to allow orders to be issued to people closely associated with an insolvent or 'disappeared' corporate licensee?

*New offence for failing to report certain financial events including entering into a winding up or deed of agreement.*

More work required on protection of retention funds and progress payments for particular projects in the event of insolvency.

6. *Creation of a new dispute resolution process for building-related technical and contractual disputes.*

The proposed model was to be 'refined', subjected to further consultation and implemented. New standards and tolerances for building related disputes and complaints were to be considered for adoption. What has happened about this? It is of concern that implementation of new dispute resolution model is shown as "**Long term**" in the schedule, which may indicate that this important work is being given low priority.

The KBRG would be happy to elaborate further at any public hearings.

Thank you

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On behalf of the KBRG