



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT, AND CITY SERVICES
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Submission Cover Sheet

Inquiry into Property Developers Bill 2023

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NAME OF THE COMMITTEE

Standing Committee on Planning, Transport and City Services

NAME OF THE INQUIRY

Inquiry into the Property Developers Bill 2023

AUTHOR'S NAME (or, if an organisation, the organisation's name and a contact person);

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DATE SUBMITTED

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To: The ACT Government Standing Committee on Planning, Transport and City Services

LACommitteePTCS@parliament.act.gov.au

Thank you for inviting submissions to the Property Developers Bill 2023.

I STRONGLY SUPPORT the Property Developers Bill 2023 as a positive first step, though I feel it doesn't go far enough.

I do not live in an apartment but I am very aware of issues of serious defects in strata buildings from reading newspapers and watching current affairs programs.

- Serious defects affect 53% of NSW strata buildings, with recent builds being worst affected.
- NSW Building Commission media release at: <https://www.nsw.gov.au/departments-and-agencies/customer-service/media-releases/survey-shows-serious-defects-down-newer-apartment-buildings>
- Similar issues have been publicised in the ACT, eg, 4 Corners "Cracking Up" which included Belconnen's Elara Apartments as one of its examples, highlighting the financial and emotional consequences for apartment owners: <https://www.abc.net.au/news/2019-08-21/cracking-up/11431474>

Developers complain that this new legislation will increase their costs. However, failure to hold developers accountable for defects shifts the cost of rectification work to unsuspecting new owners and costs more in the long run than it would if sound construction methods had been used in the first place.

If the ACT Government policy is to encourage densification and increase apartment living, building quality needs to be high on the agenda. Those who wish to buy apartments need to have confidence that their new home won't have serious and costly defects. It is absolutely vital that the quality of developer-built accommodation is high. Otherwise Canberra will face a legacy of crumbling, defective buildings, and those lumbered with footing the bill will be those least able to afford it: those living in 'affordable', mass-produced housing.

Defective building quality is not limited to 'affordable' apartment complexes but affects high-end buildings as well. Affordable housing should not translate to hazardous buildings that tenants have to evacuate indefinitely, which happened in Sydney recently.

I am very concerned that in the current system there are so few regulations that developers can walk away from their responsibilities, and if necessary phoenix in order to avoid paying for their cost-cutting. This Bill is a good first step to improving property developer accountability.

The Bill needs to be further strengthened

Building Certifiers: I have long been amazed that the ACT Government (and other Australian jurisdictions) decided to privatise Building Certification. Independent validation of building quality has such an important role in ensuring public confidence that this function needs to be returned to the Government as soon as possible. Currently certifiers are contracted by developers which is a serious conflict of interest. The practice of allowing developers to hire their own certifiers should be disallowed by the new legislation and the ACT Government needs to put in place alternative arrangements at the earliest.

Liability for Defects: The insurance industry is taking notice of widespread building defects issues and is aware that the problem is worsening – insurability will be an issue for apartment purchasers. Financial liability for defective buildings needs to be the responsibility of the developer. Developers should be required to hold latent defects insurance <https://www.insurancenews.com.au/regulatory-government/serious-defects-found-in-more-than-50-of-nsw-strata-buildings> or contribute to a trust account in advance of any new builds to ensure there are funds to rectify any defects.

Warranty period: If we have warranties on electrical goods for 10 years, how much more important is it to have warranties on something one would expect to be much more durable like housing. It is staggering that the onus of proof for latent defects fall on the owner after just 2 years under this Bill.

Qualified and Registered tradesmen: One of the issues raised by 4 Corners in one of its programs was that engineering designs often don't translate to the building site. Architects finish their 'bit' then the developer employs sub-contractors to build, who then employ sub-sub-contractors, all of whom are further and further removed from the original design. You tend to get increasingly low levels of expertise down the line, so the person making the decision on the day may be an unsupervised, unqualified workman and that decision may bear no relation to the original approved DA plans and engineering standards. As this decision may ultimately be buried under concrete it is hard to detect and hard to fix. This is one of the major contributing factors to building defects.

While there is a problem with developers not taking responsibility for defects, their practice of subcontracting also results in a loss of control (cheaper subcontractors will be least qualified, putting a downward pressure on quality). Therefore, this legislation also needs to address the employment of unqualified sub-contractors many times removed from the architect and inadequate umbrella supervision by the engineer-designer. The Owners Network Corporation submission recommends: "licensing/registration is needed across the full chain of responsibility. This should include architects/designers, water proofers, roofers, window fitters, concreters, tilers, fire safety related trades and any others which could impact the Defects that occur most often". I fully support all the Owners Corporation Network's recommendations.

To ensure there is an adequate pool of local skilled tradesmen & women for developers to draw from, relevant CIT courses need to be free or minimal cost, and trade certificate training should also be fully available at no cost to ACT college students. Likewise, scholarships could be offered to university students for any other skillsets that are in short supply in the ACT.

Implement all the recommendations into the Inquiry into Building Quality: The Owners Corporation Network (ACT), in its submission to the Inquiry into the 2022 Planning Bill drew attention to government inaction on successive building inquiries and recommendations. They particularly recommended that the Government should implement all 48 of the Government's own recommendations that came out of its Inquiry into Building Quality, in particular Recommendation 3 by Establishing a Building Commissioner as an Independent Statutory Officer.

This Bill is a good first step but needs to go further.

Thank you for considering my submission.

Best regards,

Caroline Wenger