



STANDING COMMITTEE ON PLANNING TRANSPORT AND CITY SERVICES  
Jo Clay MLA (Chair), Suzanne Orr MLA (Deputy Chair), Mark Parton MLA

**Inquiry into ACT Budget 2021–22**  
**QUESTION ON NOTICE**

MARK PARTON MLA: To ask the Attorney-General (To be transferred)

Ref: EPSDD Budget Statement E, page 21, output class 6.2, Building Reform

In relation to Budget Statement E on the building reform output:

1. What consideration is being given to reviewing the laws controlling the ability of developers and builders to rescind property sales contracts without cause:
  - a. How many complaints are received from the public regarding property sellers terminating sales contracts and particularly for off-the-plan sales;
  - b. What measures does the government have in place to restrict opportunistic property vendors from terminating a sales contract in order to take advantage of an escalating market a short time later;
  - c. What actions are available to the public to bring complaints on this practice to the attention of the government; and
  - d. What actions can the government take in responding to such complaints?

Shane Rattenbury MLA: The answer to the Member's question is as follows:–

1. **What consideration is being given to reviewing the laws controlling the ability of developers and builders to rescind property sales contracts without cause:**

Off-the-plan property purchase contracts are contracts to purchase a property that has not yet been developed. There are risks associated with such contracts for both purchasers and developers. Many off-the-plan contracts include a 'sunset' clause, which sets a period of time for the completion of a development and creates a right to rescind the contract if the specified time period elapses. Sunset clauses are designed to protect both parties from the risks of significant development delays.

There is currently nothing in ACT law which prevents the use of sunset clauses so long as they are exercised in accordance with the terms of the contract and they do not contravene consumer protection laws. However, some other states do regulate the use of these clauses. Having regard to Canberra's rising property market, I have asked the Justice and Community Safety Directorate (JACS) to review our laws and consider reforms to better protect purchasers in off-the-plan developments, for example by limiting a developer's ability to rescind purchase contracts. JACS is currently consulting key stakeholders on a possible model for reforms.

**1a. How many complaints are received from the public regarding property sellers terminating sales contracts and particularly for off-the-plan sales**

The Government is aware of significant concern in the community in relation to rescissions of off-the-plan contracts. During 2021, Access Canberra has received 30 complaints from the public regarding property sellers terminating contracts which relate specifically to off the plan sales. I, or my Ministerial colleagues, have also received 37 complaints via ministerial correspondence on this issue this year.

**1b. What measures does the government have in place to restrict opportunistic property vendors from terminating a sales contract in order to take advantage of an escalating market a short time later.**

As noted above, ACT law does not currently prevent the exercise of rescission provisions included in off-the-plan contract unless those clauses are exercised in breach of the contract or in breach of the consumer protection laws. The Government is intending to bring forward legislation to limit the exercise of rights under rescission clauses in off-the-plan contracts, so as to better protect purchasers in a rising property market.

**1c. What actions are available to the public to bring complaints on this practice to the attention of the government.**

All ACT residents are able to raise issues of concern to them by writing directly to Government ministers. This can be done via the 'Contact my Minister website': <https://www.contactmyminister.act.gov.au/>

Consumers can lodge a Fair Trading dispute against a business or trader on the Access Canberra website here: [Feedback and Complaints \(act.gov.au\)](https://www.accesscanberra.act.gov.au/contact/feedback-complaints).

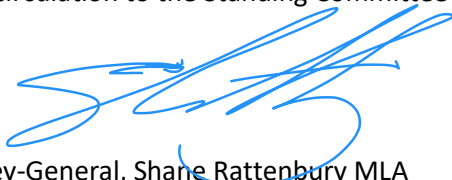
**1d. What actions can the government take in responding to such complaints?**

I, and other Government Ministers, respond to concerns raised with us via the Contact my Minister website by writing back to the constituent about the issue they have raised. Where constituent correspondence alerts the Government to issues of concern to the community, these issues may be referred to the relevant Directorate to consider potential policy reforms. As indicated above, I have asked JACS to review our laws in response to issues raised by purchasers of off-the-plan developments.

Access Canberra has the power to investigate complaints in relation to breaches of the Australian Consumer Law (ACL). The Commissioner for Fair Trading has the power under the ACL to accept written court enforceable undertakings from businesses. An enforceable undertaking seeks to address a breach or alleged breach of the ACL by negotiating an outcome as an alternative to court action. Enforceable undertakings are usually accepted by the ACT Commissioner for Fair Trading when they directly address the conduct that has given rise to the alleged breach and its consequences.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:



Date: 5/11/21

By the Attorney-General, Shane Rattenbury MLA