



**LEGISLATIVE ASSEMBLY**  
**FOR THE AUSTRALIAN CAPITAL TERRITORY**

---

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

## Submission Cover Sheet

### Inquiry into Property Developers Bill 2023

**Submission Number: 20**

**Date Authorised for Publication: 7 March 2024**

## **COVER PAGE**

### **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**

Voices of West Belconnen

[REDACTED]

[REDACTED]

### **DATE SUBMITTED**

29 February 2024

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.

The Voices of West Belconnen STRONGLY SUPPORT the Property Developers Bill 2023 as a positive first step in improving Canberra's building standards and helping create building standards that will be of a better quality than is currently provided. The poor standard of building construction in Canberra has become a norm. Noone has a house built with no quality of build problems.

It does not matter who you speak to about housing builds. It's not normal how many issues there are with housing and apartment builds to the point poor quality builds have become normalised.

We are also aware of the many issues of serious defects in strata buildings from speaking to people as well as reading newspapers and watching current affairs programs that.

- 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-andagencies/customer-service/media-releases/survey-shows-serious-defects-down-newerapartment-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>

Although Developers complain that this new legislation will increase their costs, they are also obliged to build homes that have good longevity and are built to meet Australian building standards. They should also be held accountable for the quality of their builds. 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 or even new homes 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 properties are 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. Can you imagine what a collapse of an apartment building could do to Australia's building industry reputation? It is concerning that in the current system there are so few regulations holding builders responsible for the quality of their builds as well as to account for ensuring that any defects are fixed properly, particularly when it costs a small fortune to build a house.

We support the Bill as being an effective way to improve property developer accountability.

The Bill needs to be further strengthened to include Building Certifiers and to hold the certifiers to account for the construction they are certifying. Hopefully this way we'll avoid situation where straight pipes are installed in ensuite bathrooms and whole ensuites have to be ripped up to fix the problem.

It's not clear to our group what the advantages are of a privatised Building Certification industry and what the benefits are to ACT Government of this privatisation. There should be building standards that all certifiers hold to. Independent validation of building quality is vital in ensuring building construction is of a good quality and that building standards are adhered to. Building certification 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 and house purchasers in the future if quality does not improve.

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/regulatorygovernment/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. To years and houses are worth on average \$800,000?

### **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. How can this practise be legal and allowable. Is it not misinformation? If you can not build something you have advertised then you should not be advertising that particular build.

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”.

The Voices of West Belconnen are fully supportive 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 the opportunity to provide comments. We also hope there will be an annual report provided to the Legislative Assembly that shows the new legislation is working.

Voices of West Belconnen