

Appendix D: Additional Comments by Ms Suzanne Orr MLA

Property Developer Licencing

- 1.1. Property Developers have an important role in the delivery of our built environment and in turn a large level of social responsibility. With this responsibility should come accountability. While the *Property Developer Bill 2023* (the Bill) is an important step towards realising proper accountability in the Property Development sector it should not be viewed as the last step.
- 1.2. Property developers are uniquely placed in the building and construction sector with oversight and decision-making responsibility over a building from its inception, design, and delivery. The construction phase is however one aspect of the full spectrum of activity undertaken by a property developer. It is disappointing the Bill does not address other aspects of the important role developers have in delivering the planning vision of the city.
- 1.3. As a community we rely on private development to provide a range of built forms that are crucial to the makeup of our city and the opportunities that our built environment provides. From housing, to workplaces, public facilities such as libraries, we as a community rely on the property developers to deliver not only the physical building but also the public interest inherent in its intention.
- 1.4. In my capacity as a local member, a longstanding member of the Standing Committee of Planning, Transport and City Services Committee and its counterpart in the 9th Assembly, the Standing Committee on Planning and Urban Renewal and as a member of the 9th Assembly's Standing Committee on Economic Development and Tourism which undertook the Building Quality Inquiry, I have heard consistently that what is promised in a development proposal is often not delivered.
- 1.5. This is perhaps best evidenced through mixed use developments which propose a commercial development component only to have the proposal amended after approval and prior to completion, sometimes entirely removing the commercial aspect, other times substituting commercial activity which achieves a very different outcome. Other examples include amending the number of one or two or three bedroom apartments leading to an abundance of some and a scarcity of others.
- 1.6. These changes can have a significant impact on the urban environment that is delivered. Places that should be vibrant commercial areas have those aspirations built out. Housing that should provide options for a range of needs become focused on typologies that suit some but not others leading to less choice for people who may wish to move through the housing ladder while staying in place. In short, these changes can fundamentally change the options available to our community for the areas we live, work and play. However, the inception and design of the building and how well these are delivered by the completed development feature less prominently in the coverage of the Bill.

- 1.7. To fully realise the benefit to the community of the Property Developer Licencing Bill consideration should be given to the delivery of the final project against the urban outcomes originally sought. For example, an audit of past works completed by a developer, to ensure that what was originally proposed as far as urban outcomes are concerned was actually delivered with penalties for consistent or unjustifiable compliance provisioned under the Bill.

Recommendation 1

The potential for the property developer licencing scheme to improve the delivery of urban outcomes through stronger regulation and compliance mechanisms should be considered in future reviews of the Bill.

Public Certifiers

- 1.8. Improving the rigour and accountability of the building and construction sector is not and should not be limited to one actor in the sector.
- 1.9. The importance of the Bill in addressing the role property developers should have in being accountable for the quality of what is constructed cannot be understated. The Bill shall ensure and improve build quality in the ACT.
- 1.10. However, it needs to be acknowledged that there are further areas of improvement, which if implemented, will complement the property developer licencing scheme and further improve the quality of buildings in the ACT.
- 1.11. The 2020 commitment from the ACT Government to establish a team of building certifiers within the ACT Public Service needs to be delivered.
- 1.12. The commitment came after years of concerns being raised regarding the conflict of interest inherent in a private system where the certifier is appointed by the developer of building. This was particularly pertinent to multi-unit developments, where the intended owners do not take ownership until construction is completed and have no say over who is appointed as the certifier during construction.
- 1.13. Removing this inherent conflict of interest will provide greater confidence in the certification process. It is disappointing that almost four years after the commitment was made, the ACT Government has not yet appointed a single publicly employed building certifier this needs to change.

Recommendation 2

The ACT Government should deliver on its commitment to establish a team of building certifiers within the ACT Public Service without further delay.

Further Reform

- 1.14. The program of regulatory reform to ensure the quality of the built environment in the ACT should not stop at the implementation of Property Developer Licensing or the establishment of a team of publicly employed building certifiers.
- 1.15. Once these two reform commitments are completed, attention should turn to other areas of improvement where greater accountability and rigour can be introduced across all parts of the sector, with the benefit of improved built environment outcomes.
- 1.16. For example, consideration could be given to additional hold points being added to the certification process, more trades being subject to occupational licensing, or more accessible dispute resolution processes than legal proceedings being established.
- 1.17. Without addressing these additional areas of potential reform, the gains made by the current reforms will be limited.

Recommendation 3

The ACT Government should give further consideration to future regulatory reforms in the building and construction sector including the fit for purpose of the certification process, the breadth of occupation trade licensing, and dispute resolution mechanisms.

Conclusion

- 1.18. The establishment of a Property Developer Licensing Scheme is an important accountability measure within the building and construction sector. However, this should not be the only regulatory reform pursued. The commitment for a team of publicly employed building certifiers needs to be delivered and future areas of reform across other parts of the sector need to be identified. It is only through addressing all areas in the development and construction process that we will achieve a system Canberrans can truly have confidence in.