



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON PLANNING, TRANSPORT
AND CITY SERVICES**

(Reference: [Inquiry into Annual and Financial Reports 2021-2022](#))

Members:

**MS J CLAY (Chair)
MS S ORR (Deputy Chair)
MR M PARTON**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 2 NOVEMBER 2022

**Acting secretary to the committee:
Ms M Ikeda (Ph: 620 50199)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

APPEARANCES

Environment, Planning and Sustainable Development Directorate	48
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Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

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Amended 20 May 2013

The committee met at 4.46 pm.

Appearances:

Vassarotti, Ms Rebecca, Minister for the Environment, Minister for Heritage, Minister for Homelessness and Housing Services and Minister for Sustainable Building and Construction

Environment, Planning and Sustainable Development Directorate

Brady, Dr Erin, Deputy Director-General, Planning and Sustainable Development

Bennett, Mr James, Executive Branch Manager; Building Reform, Housing and Design Services

Green, Mr Ben, Acting Executive Group Manager, Development and Implementation

THE CHAIR: Good afternoon and welcome to the public hearing for the Standing Committee on Planning, Transport and City Services inquiry into annual reports. The proceedings today will examine the annual reports for the Environment, Planning and Sustainable Development Directorate, and Major Projects Canberra.

Before we begin, on behalf of the committee, I would like to acknowledge that we meet on the land of the Ngunnawal people. We pay our respects to their continuing culture and the contribution they make to the life of this city and this region.

We are recording proceedings today, transcribing for *Hansard*, and they will be published. The proceedings are also being broadcast and webstreamed live. When you take a question on notice, please use the words: “I will take that as a question on notice.” That means our secretariat can track down that information and we can make sure we get everything we need for our reports.

We are hearing from the Minister for Sustainable Building and Construction. Welcome, Minister Vassarotti. Thank you for joining us. To the many, many officials here: thank you all for coming. I would like to remind you all of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Can I get a verbal agreement that everybody has had a chance to read that statement? Do you all agree with that statement?

Ms Vassarotti: Yes.

THE CHAIR: That is brilliant. We have received the minister’s opening statement, which will be incorporated into *Hansard*, so that will appear on the record.

The opening statement read as follows—

I would like to acknowledge the traditional custodians of the land on which we are meeting, the Ngunnawal people, and pay my respects to their elders, past and present and acknowledge their long connection to this land and their continuing contribution to the life, culture and wellbeing of our city. I also pay my respects to other Aboriginal and Torres Strait Islander people who are with us today.

It is my pleasure to be able to inform the Committee of the work undertaken across the Sustainable Building and Construction Portfolio, a key portfolio for promoting health, safety, amenity and sustainability outcomes and maintaining quality of living standards for Canberrans.

Building Quality Initiatives

As the Minister for Sustainable Building and Construction, I am proud to work with industry and the community to deliver a building regulatory system that supports, drives and delivers:

- high quality design and building;
- compliance with building standards; and
- integrity and accountability in the ACT building and construction industry.

Compliance with building standards for health, safety, amenity and sustainability is an important part of maintaining our quality of life and the Government remains committed to improving our building regulatory system.

We are achieving this through initiatives that:

- support continuous improvement and the effectiveness of the ACT's building regulatory system;
- improve the quality of buildings;
- support climate resilient and sustainable buildings - from building design and construction that situates, designs and builds new housing to anticipate and protect inhabitants from weather extremes and that is healthy and comfortable to live in, to advocating for standards that support these new buildings being affordable to live in;
- respond to emerging issues;
- provide robust public protection requirements;
- deliver education and awareness campaigns;
- deliver robust compliance frameworks supported by appropriate compliance activities; and
- support a nationally consistent approach to regulation of the building and construction industry where appropriate for the ACT.

Reforms to the building regulatory system are intended to give greater choice and protection for the community and make those working in the industry accountable for their actions.

The Government is undertaking a significant reform program which includes consideration of recommendations from the Shergold-Weir Building Confidence Report (BCR) and the ACT Legislative Assembly Standing Committee Inquiry into Building Quality.

This reform program includes:

- establishment of a registration scheme for professional engineers with
- legislation due to be introduced later this year;
- implementation of the 2022 edition of the National Construction Code (NCC);
- development of accountability measures for developers;
- development and assessment of options for a public certification service;
- review of the Energy Efficiency Rating Mandatory Disclosure Scheme;
- review of the regulatory settings for fidelity fund schemes;

- shifting to world's best practice on climate-ready and sustainable buildings;
- supporting a mobile labour force in a manner that does not adversely impact consumers, workers or the public; and
- improved regulation of building practitioners in response to the national Building Confidence Report.

The ACT Government's Building Reform program is available in detail on the Build, Buy, Renovate website, which will continue to be updated on a regular basis to provide the community and industry with information on the status of reforms as well as planned initiatives and reforms. This transparency is important to me.

I would also like to acknowledge the impacts the COVID-19 pandemic has had on the building and construction industry such as supply chain and workforce issues which have now been compounded by recent devastating natural disasters and global events.

I look forward to continuing the spirit of collaboration that has developed at a local level between the Government and industry as we navigate these challenges, and indeed on a national level through our consultation on updates to the NCC and my involvement in the Building Ministers' Meeting.

My fellow Building Ministers and I made a final decision on the NCC 2022 in August this year and I am pleased with the outcome and the key advocacy role that the ACT Government played in the inclusion of key sustainability and accessibility measures in NCC 2022.

The NCC 2022 contains the largest number of changes since the NCC commenced. Significantly, it introduces minimum accessibility provisions for residential housing and apartments based on Liveable Housing Design Guidelines silver standards. These standards will require simple features, such as doors wide enough to accommodate wheelchairs and step free access, a bathroom on the ground floor and structural reinforcements to allow for the installation of supports like grip rails if they are needed, now or into the future.

Introducing minimum accessibility standards for new homes will increase the availability of homes able to be adapted and accessible to all members of the community regardless of age, ability, or other factors. The ACT Government has a long-standing commitment to universal design standards, of which I will continue to champion.

I have also been a strong advocate for the new energy efficiency requirements for residential buildings included in the NCC 2022 which include an increase in the level of thermal comfort and a whole-of-house energy use budget. These changes are complemented by provisions that facilitate the future installation of on-site renewables and electric vehicle (EV) charging; and mitigations to combat condensation in buildings as part of a staged improvement to provisions in the NCC.

From October 2023 all new homes built in the ACT will be required to have seven star energy efficiency and meet minimum accessibility standards, ensuring all new homes will be designed for people and climate.

We have also been doing important work on the adoption of automatic mutual recognition in the Territory and considering how we can implement this for construction occupations. An exemption is currently in place for construction occupations, and we are exploring measures to address the identified risks during the term of the exemption, which runs to 2025, to support the future operation of Automatic Mutual Recognition for construction occupations in the ACT.

I would now like to share some quick updates on current priority initiatives and work currently underway:

- EPSDD is leading work, and engaging a consultant, to undertake a regulatory and economic assessment of a range of options for a government-run building certification service. This has been informed by workshops with key ACT Government agencies to understand the full range of issues to be explored. This work responds to commitments in the Parliamentary and Governing Agreement (PaGA) and recommendations from the Standing Committee on Economic Development and Tourism Inquiry into Building Quality (2020).
- Additionally, EPSDD is working with a consultant to undertake a review of the ACT's Energy Efficiency Rating Mandatory Disclosure Scheme against best practice and the draft national framework to inform any continuous improvement measures for the scheme which has been in operation since 1999.
- EPSDD is in the process of preparing a discussion paper which will consider various issues and options for improving the accountability of developers and providing consumers with greater information about developments and the developers behind them. This paper will inform further consideration by Government of this matter and will form the basis of future consultation with stakeholders and the community.

A revamp of the backyard lifeguard website and materials is underway with the new website and materials to be released for this summer. This is the first step in this Government's commitment to improving home swimming pool safety and the community's understanding of modern safety standards for swimming pool barriers.

We anticipate undertaking public consultation of several matters in 2023, including implementation of the residential building dispute scheme, residential building work insurance limit settings and regulation of developers and development activity.

Private Buildings Cladding Scheme

The Private Buildings Cladding Scheme (the Scheme) is designed to encourage and assist in the replacement of higher-risk combustible cladding on privately-owned buildings where their multi-owner nature may otherwise present a practical impediment to the replacement of such cladding.

The Scheme provides both financial assistance through access to rebates and concessional loans and practical assistance through the availability of a Register of Suppliers with the qualifications, experience, licences and insurance relevant to cladding work in the ACT. The Scheme has two phases:

- a testing and assessment phase, and
- a concessional loan.

Applications for the testing and assessment phase of the Scheme opened on

21 July 2021 and closed on 21 July 2022. This Phase offered owners corporations a 50 percent rebate on the costs (up to \$20,000 excl. GST) of the testing and assessment of the cladding on their buildings to determine what risk, if any, the cladding posed.

Phase 2 of the Scheme opened on 29 August 2022. Phase 2 offers a concessional loan, which is available to eligible owners corporations to remove and replace combustible cladding from their buildings. The ACT Government has committed \$50 million to the Scheme.

Costs covered under the concessional loan will include:

- the cladding remediation design and works;
- any ‘make good’ works necessary due to cladding remediation;
- any works on the external wall necessary for certification; and
- regulatory fees, such as building approvals.

The ACT Government is providing assistance for the entirety of the cladding identification and remediation process.

The key elements of the concessional loan include:

- a fixed interest rate at the rate of Government borrowing;
- a loan repayment period of 10 years, which starts after works are completed;
- no application or other loan fees;
- individual loans generally up to \$15 million per owners’ corporation; and
- no penalties for repaying the loan early.

The ACT Government has engaged in many communication and outreach activities to contact and inform apartment owners about combustible cladding and the availability of the Scheme, including:

- Undertaking presentations to owners corporations and strata managers in conjunction with peak bodies such the Owners Corporation Network and Strata Communities Australia (ACT);
- Intensive one on one engagement with all the strata management companies in the ACT and with individual strata managers to raise awareness of the Scheme, and help them to alert their clients to the scheme; and
- Intensive engagement with owners corporations to provide information on the Scheme, explain the testing and assessment process and assist with applications.

I would like to thank the Owners Corporations who have chosen to participate in the Private Buildings Cladding Scheme. Together we will continue to make the ACT community safer.

Loose Fill Asbestos Insulation Eradication Scheme

Following extensive discussions with industry experts, asbestos assessors, and homeowners in 2014, the ACT Government announced the Loose Fill Asbestos Insulation Eradication Scheme (Scheme). The Scheme was supported by a \$1 billion loan from the Australian Government and is designed to eradicate ongoing exposure risks through the removal and remediation of residential properties affected by Mr Fluffy loose fill asbestos insulation.

The Scheme was administered by the Asbestos Response Taskforce (Taskforce)

from 28 October 2014 up until Taskforce closure on 30 June 2022. The Taskforce over its eight years of operation made significant progress to realise the ACT Government's goal of eradicating loose fill asbestos insulation from Canberra's homes.

As at closure of the Taskforce on 30 June 2022:

- 991 properties (975 affected and 16 impacted) had been purchased under the Scheme at a total cost of \$714.2 million;
- 1020 properties (1006 affected and 14 impacted) had been demolished – either through the Scheme or privately;
- 1006 remediated blocks had been removed from the Affected Residential Premises Register;
- 969 blocks had been sold (exchanged) for a total value of \$653.2 million; and
- 1125 Relocation Assistance Grants had been paid to the value of \$12.7 million.

Noting that a small number of residential properties affected by Mr Fluffy loose fill asbestos insulation continue to exist across the Canberra community, and it is possible that additional properties may be identified in the future, the Government in this budget is providing \$9.5 million to establish a Loose Fill Asbestos Insulation Coordination team (Coordination team) within EPSDD.

Since 1 July 2022, the remaining functions of the Taskforce are being delivered by the Coordination team with a focus on:

- Administering the ongoing work of the Scheme and the voluntary Buyback Program;
- Providing ongoing support for remaining homeowners who are progressing through the Buyback Program or who are choosing to manage their property privately;
- Progressing the Demolition Program and resolving the challenges associated with complex properties within the Scheme;
- Supporting the renewal of affected neighbourhoods and contributing to a safer and more liveable city through delivery of an effective sales program which provides First Right of Refusal offers to former homeowners and the sale of remediated blocks to the public;
- Providing support, information and avenues for homeowners if other properties affected by Mr Fluffy loose fill asbestos insulation are identified in the future; and
- Finalising the delivery of key legacy projects.

This is an important investment to ensure that community remain supported and the transition of functions of the Scheme to occur over the next 18 months.

I am pleased to provide this update for the Committee on the considerable work and progress across the Sustainable Building and Construction Portfolio.

THE CHAIR: With that, I will begin with the first question.

Minister, Canberra has had a bit of a reputation for problems with building quality in apartments in particular. That has been a problem for our city as we are trying to densify. I know you have done quite a lot of work on improving building quality, and you have been implementing recommendations from the Shergold and Weir *Building*

Confidence report and previous Assembly committee recommendations. Can you give me an update on where we are up to with some of those new laws and policies that are going to help improve apartment building quality?

Ms Vassarotti: Thank you for the question, Ms Clay. The issue of building quality and building reform is absolutely a work in progress. It is an area of work that successive governments have been doing a lot of work on. Certainly, a lot of work was progressed even prior to me coming into the role.

We do have a range of priority projects that we have talked about a number of times with this committee. I am really happy to provide you with some updates on those projects. Firstly, a key one that people would be aware of is the engineer registration process. We had a discussion paper that was out earlier in the year, and we have recently released a listening report. We are on track to have legislation introduced to the Assembly before the end of the year. We are really happy to provide a bit more detail on that.

In relation to the issue of building certification, we are currently in the process of engaging a consultant to undertake the regulatory and economic assessment. There are a range of options that we can take in relation to government-run building certification services. Again, we are really happy to provide a bit of information regarding all of that. We have been working with a range of government stakeholders on the scope of works and how that might operate.

Another key priority project is development licensing and developer regulation. Again, we are on track to have a discussion paper out for consultation prior to the end of the year—and I feel like there is another priority project that I have forgotten about. The other project that we are working quite hard on is the implementation of the next version of the National Construction Code. There are some significant changes to that which will also work to increase building quality.

I might just look to Mr Bennett, who is the senior executive leading a number of those projects, to provide a little bit more detail. I suspect you will want to jump into some specific details on those projects as well.

Mr Bennett: Thank you. The previous Assembly inquiry into building quality in the ACT was handed down in 2020, I believe. There were 48 recommendations in that report. The government agreed to 12 of those, agreed in principle to 20 recommendations and noted 12 of the others. A lot of that work has been progressed. There was some overlap with the *Building Confidence* report as well, and other work that was underway as part of our regular and ongoing reforms to the ACT building regulatory framework.

What we have been progressing, in relation to building quality and the inquiry recommendations, is the expansion of the regulator's auditing program, through Access Canberra. There was the establishment of significant resources and capabilities there to undertake a broader range of audits and the creation of a new audit team. We also have been working on continuous improvements to the Build, Buy or Renovate website—that is, really trying to make it easier for the public and for industry to understand information about the building regulatory system here in the

ACT, and about the rights and responsibilities of the key participants, and also providing regular updates on the status of our current and future building reforms which are underway.

The regulator has been releasing newsletters and construction notes to communicate industry-wide issues and clarify interpretations and best practice methods. Also, we have seen the introduction of minimum documentation for the building approval process and information to guide applicants for building approval for class 2 to 9 buildings. This has been a process where we have been seeking to provide further information to industry to really lift the standard and quality of information that is provided through the building approval application process.

The minister touched on quite a few of the reforms that we have been working on: the registration scheme for professional engineers and the accountability measures for developers. One other item was the review of the fidelity fund scheme regulatory settings that we have here in the ACT. They are all projects that we have been working on, coming out of the recommendations of that building quality inquiry.

MS ORR: Minister, just going back to your statements on the three different pieces of work that are underway, I have got a number of questions for all of them. I will start with engineer licensing. I believe that is the one that you said is probably the most progressed, based on the testimony today and in previous hearings. The listening report has come out—yes?

Ms Vassarotti: Yes, it has.

MS ORR: Yes; I am correct. And you are looking at legislation at the end of the year. Could you give an indication of what would be going into that legislation? Is it a code of conduct? What sort of regulatory accountability mechanisms do you anticipate being in that bill?

Ms Vassarotti: Thank you very much for the question. Certainly, the consultation process that we have undertaken has been really helpful for us to tease out some of those key issues, particularly around accountability mechanisms—things such as a code of conduct. I think it has also been assisted by looking at some of the other regulatory systems that are operating across the country. I might look to Mr Bennett to provide a bit of detail on some of the key themes that we have heard from stakeholders. Since the listening report, we have also been engaged with key stakeholders on really refining the final details of the legislation, which is obviously imminent. I might look to Mr Bennett to touch on some of those key issues.

Mr Bennett: Thank you, Minister. For the engineer registration scheme, a couple of months ago we released a consultation paper. That consultation paper was put out for public consultation and also for consultation with industry. The consultation paper set out the key elements of the scheme: the requirement to be registered; the areas of engineering that it would cover; the process for establishing your eligibility to be registered; looking at competence, experience and qualifications as minimum standards in order to be registered; and then, once registration decisions were made, looking at the ongoing obligations that would be placed on registered professionals.

The consultation paper that we put out, and the legislation that we have drafted, looks at developing a code of conduct that registered professionals would need to comply with. Then our regulatory framework would allow us to hold registered professionals to account against that code of conduct. As we go forward, over the coming months, we will be looking to engage further with our industry stakeholders, and the three peak engineering bodies especially, on what exactly would form that code of conduct, and that code of conduct will be an instrument made by the minister under the legislation.

This work for an engineer registration scheme has come out of work done by national building ministers, out of the *Building Confidence* report and the national registration framework. In the ACT we have been working closely with our colleagues in other jurisdictions—Queensland, Victoria and New South Wales especially—to try to ensure that our system here aligns closely with theirs, especially as we start to move into the automatic mutual recognition processes that will allow a mobile labour workforce in the construction industry in the coming years.

THE CHAIR: What is your expected passage date on the whole package of engineering registration? If it is introduced at the end of this year, do we—

Ms Vassarotti: It will definitely be introduced at the end of this year. I think we are looking at a standard introduction. We are not looking at a delayed introduction?

Mr Bennett: Sorry; the passage of the legislation?

Ms Vassarotti: Yes.

Mr Bennett: Introduction later this year and then into the Assembly process for debating and passing that bill. If the bill is passed, we would be looking at a delayed commencement of the scheme to allow us to communicate with industry about this requirement to be registered, and to allow us to set up the administrative arrangements behind the registration scheme, to work with our colleagues in Access Canberra to make sure that we have our IT systems in place and all of our compliance policies and processes as well.

MS ORR: Do you have an indication of how long that delayed commencement would be, just to put all those pieces into place?

Mr Bennett: We do not yet. What we said in the consultation paper is that the scheme would not commence any earlier than 1 September 2023. We have provided at least that period of time, and that would also be subject to further decisions of government in relation to budget funding for establishing the scheme and appropriately resourcing it.

MS ORR: Can I move to the certification process? You mentioned that you have a consultant coming on board to do a building certification and economic regulatory assessment. You mentioned that there are a lot of options you could take. Can you run me through some of the options that you are looking at or considering?

Ms Vassarotti: With building certification there are a range of options, from

insourcing the whole certification scheme to having a parallel certification scheme that sits beside private certification. I might just look to Mr Bennett to talk about some of the discussions that have been occurring across government on some of the issues that we have been looking at, particularly around the market that we have in the ACT and how we deal with competition-related issues, which speak to some of the complexities of it.

Mr Bennett: Thank you, Minister. We have a commitment in the parliamentary agreement to explore establishing a public certification scheme. Through this work that we are doing at the moment, we are looking at a range of options. With the building regulatory system that we have here and the role of certifiers in that scheme, we have a range of interventions that we could look at, whether that is establishing a certification service that provides a full range of certification services and is really a certification business run by the government, but also looking at the potential to target some of that role to particular classes of buildings or particular stages of the building approval and inspection process as well.

MS ORR: Mr Bennett, when you say “target” parts of it, do you mean in the sense of targeting particular building types that would be available for government certification or would it be that certain building types would have the option of government certification but could also still go private?

Mr Bennett: That is the range of options that we are looking at. We envisage that you would always be able to engage a private sector certifier, but there would also be the option for people to engage a public sector certifier.

MS ORR: If you have the consultant coming in, what is the process you are looking at doing? They will be providing the report to you? Will that report be made public? What are the time lines you are looking at for developing that piece of work?

Ms Vassarotti: In relation to the consultancy piece of work, my understanding is that, in terms of looking at options that government could look at, it would be in the first part of 2023. I do not know that we have had discussions about the public release of that document. It is primarily around developing a range of options for government to consider how we might proceed with a specific model.

Again, I might look to Mr Bennett to talk about the discussions that have happened around government and the view on how useful they have been. In relation to moving forward, we would want to be engaging with the community, and the industry in particular, so we would absolutely want to have visibility of the sorts of things that we talked about. I will look to Mr Bennett.

Mr Bennett: Thank you, Minister. I think that piece of work will be a range of options and looking at the analysis and costings of different options. That is something that we will be providing to government and having further conversations with government on, at that time, about what is the appropriate way to release that information.

MS ORR: Minister, following the consideration of those options and, potentially, the scoping up of a preferred model, do you envisage a similar practice to what you have

done with engineer licensing, where a discussion paper goes out or there is consultation on any proposed model?

Ms Vassarotti: I think that it is imperative that we do consultation with industry and the community to ensure that we get a model that is workable and that does not create unintended consequences. So we would absolutely build in some consultation.

MS ORR: Do you have even a rough indication of what you feel the time line might be for that?

Ms Vassarotti: We have made a commitment to develop the service within the term of government, so I feel like that leads us to really needing to get to a point where we are able to consult with a model certainly within 2023.

MR PARTON: Slipping away, isn't it, the four years?

Ms Vassarotti: It goes quickly.

MR PARTON: I have been in discussion with a group of residents who live in a troubled apartment complex in Narrabundah. I promise this will get back to the portfolio space.

Ms Vassarotti: Yes.

MR PARTON: This group are at their wits' end and they are running out of options in regard to the horrendously expensive rectification work that is going to be required for their complex. I am not going to name the complex, but it is the one where the owners corporation is officially insolvent because of the drama that has gone on up until this point.

I know that once these sagas have reached this point it is no longer under your portfolio umbrella. I am sure they have been in contact with your office extensively, as have others. I just want to know how much you have taken into account of experiences like these when it comes to establishing a framework to ensure that these problems either do not happen again or that, if they do happen, there is genuine recourse that is available for those who have been affected.

Ms Vassarotti: Thanks, Mr Parton, for the question. I think it is a really good question. All of the reform work that we are doing is absolutely based on the evidence and the lived experience, and where the key issues are for people. It is also based on not just the experience of us here in the ACT but also the experiences in other jurisdictions.

Identifying the priority projects has been based on the analysis and understanding of where key problems are and really looking at the issues of transparency, accountability and consequence, and the ability to rectify. As I said at the beginning, these projects come off the back of some significant work that has been going on for some time to really improve building quality issues into the future. We want to ensure that our professionals are appropriately qualified, that there is appropriate information about the professional basis of people who are taking on that work, and that there is

recourse and accountability if things go wrong. That absolutely is at the core of why we have identified these projects as priority projects. It is very much based on reflecting on the experiences of people who are working through issues that are difficult.

Creating buildings is a complex task. There are mechanisms, like defect and warranty periods, that do recognise that there is sometimes the need for rectification. But we are really looking at strengthening our processes by ensuring that people are appropriately qualified, there is good accountability and there is a good regulatory system when things go wrong.

MR PARTON: It is not a trick question. It is a genuine question. Once some of the frameworks are established, as you have alluded to, in upcoming legislation, do you have a genuine level of confidence that we will not see people left in this situation, that they will have a genuine avenue for it after that?

Ms Vassarotti: Obviously, I am not about to talk to a specific example.

MR PARTON: No.

Ms Vassarotti: But I believe that these reforms will make a significant difference, particularly around transparency and accountability in the different areas, whether it be at the property developer level, the people who are financing and creating, or some of the key professionals. Engineers are a really good example of that—that certification process in terms of building confidence that there is good accountability and we are certifying that work is being done appropriately.

One of the other pieces of work that is progressing that we have not touched on is around the issue of dispute resolution—

MR PARTON: Yes.

Ms Vassarotti: We are also doing work on the fidelity fund. There are a whole lot of pieces in the jigsaw in relation to this. There is not one measure that is going to make a difference. It is clear that, even as we move through, this is a very significant range of projects that the team is working on right now. But once we get through these projects, there is still going to be more work to be done. I think we need to be honest about that.

MR PARTON: All right. Thank you.

MS ORR: Just picking up on Mr Parton's line of questioning, Minister, you ran through a lot of the things that you are considering that you have confidence will improve confidence in the building and construction sector. As I think you acknowledged somewhere in your statement just then, a lot of them are focused on pre-certification or up to certification. You mentioned the fidelity fund and looking at that as a post-certification, post-settlement measure. Is there anything else post-settlement that you are looking at to assist with the rectification of defects and making it easier to seek recourse and the rectification of issues?

Ms Vassarotti: Yes. There are two other elements that we have been working on. I will look to Mr Bennett to provide a little bit more detail. Some of the other things that we have also been looking at are dispute resolution and consulting on the implementation, particularly in the residential sector. That is one. Also, we have done quite a lot of work around security of payment laws. That is another area where we are looking down the line to see how we are ensuring that things continue to roll. Mr Bennett, you probably have some more detail.

Mr Bennett: Thank you, Minister. In terms of those post-certification and post-construction processes, we do have on our work program, as the minister mentioned, looking at residential building insurance more broadly and also some work looking into statutory warranties. Once we make it through this phase of our current work program, we do have some of those items on our future work program. Those are things that have come out of previous inquiry reports.

The other thing I just wanted to note is that we do work very closely with our colleagues in the compliance area and we have regular meetings between compliance and the policy area to make sure that the powers that we have are appropriate and that they have a full range of regulatory tools available to them. As particular proposals or projects come up that challenge that regulatory framework, we have conversations about whether any changes need to be made to that.

MS ORR: Okay. I would like to ask a couple more before we move on from this one. With the dispute resolution, when you say that you are looking at that, have you started work? You said that you have thought about it, but have you started looking at it or are you waiting for these other things before you start looking at what you are doing with dispute resolution? Sorry; that was a very weird question.

Ms Vassarotti: Mr Bennett, are you able—

Mr Bennett: Thank you.

MS ORR: What is your commencement date for considering that? That is a probably a better way to put it.

Mr Bennett: Yes, that is something that is on our current work program and a reform that we are progressing with. Again, once we deliver on these couple of really high priority tasks, that is something that we will be looking at doing some work on in the coming months and year.

MS ORR: Okay.

Dr Brady: I might just add to that. I have read the privilege statement and acknowledge the privilege statement. For the past couple of years, because a similar item was flagged in the *Building Confidence* report, we have also been monitoring, through the building ministers' meetings and forum, work that is happening in other jurisdictions around dispute resolution and the different approaches that they have taken. We have got a formal piece of work to still launch into. We have been monitoring that in other jurisdictions: the way they approach dispute resolution and which approaches might be more appropriate for the ACT.

MS ORR: And what are the sorts of options that you could consider?

Dr Brady: Sometimes they are referred to as an east coast and a west coast model around it. We have not necessarily made a decision on a position on that. Again, it is something that comes up at building ministers' meetings as well, the different approaches. So we have not really settled on a position. It will be part of the work that Mr Bennett referred to.

MS ORR: Is that something you would be looking to tie into whatever building ministers' decisions are being made so that it would be a consistent model or is it something that you are looking to have an ACT-specific model for?

Ms Vassarotti: One of the challenging things around building reform processes—and engineers registrations is probably a good example of that—is that, unfortunately, it tends to be a case in which often jurisdictions do like to go their own way. Lining up models that are really consistent is a little bit challenging. The opportunity of that is that we can look at the different models and pick the best of different models. Having a look at some of the other models that are being implemented in other jurisdictions does give us the opportunity to look at what might work best for us.

MS ORR: I might come back to those post-construction questions. I will now jump back to the first line of questioning and where I was up to. The third reform was the developer licensing and regulation. Minister, can you give us an update on that?

Ms Vassarotti: I can give you an update on developer regulation. As noted, this is something that we have been doing some work on internally for some time. We are very keen to get to the point where we have a model that we think is workable and something that we want to consult with industry and community about. We do know that this is an area where there is a high level of interest, and we have really appreciated some of the contributions of stakeholders, such as the unions. They have provided useful feedback in terms of some of the key elements that they see would be important to cover in any scheme we have. Again, Mr Bennett, in terms of time frame, are you able to provide a little more detail? But we are very focused on getting information into the public domain imminently.

Mr Bennett: I think, just to talk to the minister's comment earlier, we are looking to have a discussion paper prepared on that by the end of the year. As we talked about today, the building regulatory system has so many different aspects to it and so many different players in it, and we are really looking closely at the role of the developer; how the existing system and the existing processes and powers that we have and the different regulatory schemes in place impact on developers; and where there might be some opportunities for other types of regulation or other types of accountability measures to be put in place. So we are really looking closely across the full range of the building regulatory system to identify those opportunities; and that information will be put forward in the discussion paper.

MS ORR: So the discussion paper that is coming at the end of the year, will it be just a standalone discussion paper or will it be looking at concepts? Will it be looking at regulatory proposals as part of that? Can you give us an idea of where the discussion

paper is pitching and what it is looking at?

Mr Bennett: Our intention is to prepare that for the minister's consideration to then release, but it will be a discussion paper about the research analysis we have done and the range of options that might be available.

MR PARTON: Obviously we have discussed a number of directions that you are moving forward on as minister in this space, and most of them came to the table originally at the same time. Why has this one taken so long? I sense this is a lot more complex than people had originally imagined. Is that correct, Minister?

Ms Vassarotti: I am not sure if it is more complex than people had originally imagined but it is absolutely the case that it is complex. I know that whether it has been at annual report hearings or estimates hearings previously, we have spent a bit of time talking around some of the complexity around the property developer regulation process and some of the issues. So it is complex.

One of the things we have been working through is the fact that this is a reform that is novel. It is not something where we can look at different jurisdictions. Queensland did go down a path and had to shift because it did not quite meet what they were working about. It is my understanding that we have continued to have discussions with Queensland in particular, because they are still keen to have a look at this. Even key things like the definition of what a property developer is. What do you do when a property developer is the same person as your builder? What is a qualification for a property developer? How do you look at the issues around property development as they relate to the building process and as being distinct from financing and contracting roles? So absolutely there is a level of complexity. This is one that we have not rushed out and said, "Okay, we are going to do it and we will see what happens." We have wanted to get it right, so it has taken a bit more time.

MR PARTON: Can I ask specifically what unintended consequences of potential developer licensing have been considered in the preparation of this discussion paper? Is it possible for people to discuss that or is that pre-empting the discussion paper?

Ms Vassarotti: I think what we can talk about is some of the key issues that we have considered around what a potential model might look like, and I think even the commentary I just made sort of touches on some elements of that. It is around what are we trying to achieve, it is around transparency, it is around accountability and looking at the interactions between the role of the property developer and other key professionals that have a role to play.

MR PARTON: If it is not done right, is there a fear that developer licensing laws could be a disincentive for some to invest specifically in the ACT?

Ms Vassarotti: What we are very committed to doing in introducing a regulatory scheme around property developers is ensuring that we have appropriate accountability where accountability should lie. My view would be that it is actually in property developers' interests to have a robust system where people who are doing the right thing are actually able to demonstrate that.

MR PARTON: But there is a fear that it could be a disincentive?

Ms Vassarotti: It is actually not something that I have considered. What I have considered is how we can deliver on the clear policy intention of property developer regulation to create robustness in the system, to really enhance community confidence. I think that delivers confidence to the industry as well, and that is the system we are trying to create.

THE CHAIR: Minister, I often hear various industries, when there is regulatory change coming, saying that they will simply leave because it will all be too hard. This is an argument that is often made, I feel. Do you think it is very likely, with Canberra's population increasing the way it is, that developing property in Canberra may no longer be attractive?

MS ORR: I think that is what Mr Parton just asked.

MR PARTON: No, I do not think I asked it in that fashion at all. No.

Ms Vassarotti: I think people would be attracted to operating in a system where there is certainty, there is an understanding of how the system works and there is robustness in a situation. I find, across a range of regulatory approaches—and engineer registration is a good example of this—that industry supports a regulatory process, because it is never good for people who are doing the right thing when there are people doing the wrong thing and bringing the reputation of an industry into disrepute.

I have to say, in terms of the engagement that I have had across industry around our reforms, absolutely there is trepidation. We acknowledge that there is a lot of reform going on in this area, but there is a real openness to engage on what we are trying to achieve. I think that, as a government, we have demonstrated that we want to work to get a system that is actually workable and delivering on our intention. So, again, I think, generally, if you are coming into a market where there is an understanding of what the rules are and there is an understanding of why the rules are there, then that creates a market that you would be attracted to.

MS ORR: Minister, when Mr Parton was outlining his line of inquiry, he was referring to developer licensing. I noticed that when you were replying, you were saying developer regulation. Can I just ask are the two words interchangeable? Or in your mind is there a difference between the two and what is that difference?

Ms Vassarotti: I think, again, this will be a point of conversation. I think one of the challenges that we have had is if you look at the term “licensing”, and if you look at the term in terms of builder licensing, licensing is often identified with a set of qualifications. I think that is one of the points of conversation. Unlike a builder, where there is a defined set of qualifications that might take you to a core set of competencies, it does look a bit different in terms of property developers, particularly as it pertains to the building process.

I think one of the things to look at in terms of a building regulatory scheme is what is the role in terms of assessing financial capability, for instance. I think that is a live question, particularly when we have federal regulation operating in that area. So that

is my broad comment. I am not sure if Mr Bennett has any additional reflections. I think there has been a lot of reference to a property developer licensing scheme because, I think, that is understandable from a community perspective about what that means. However, when you start to get into the detail, it might look slightly different. When we are looking at engineers, we would look at an engineer's registration scheme.

MS ORR: If you are not looking then at qualifications, what would you be looking at as measures to—

Ms Vassarotti: That is why I looked to Mr Bennett in terms of some of the key things that we would be looking at. But, in terms of—I am sorry, the terminology has gone out of my head so I will go straight to Mr Bennett.

Mr Bennett: Thank you, Minister. Under the umbrella term of a property developer licensing scheme there are a range of policy responses that we could have there. As the minister alluded to, one is the positive obligation to obtain a licence. There are other ways you can obtain that same intent of the licensing scheme through potentially setting prohibitions on people being able to participate in the industry. So there might be things like if you have been convicted of a property or construction-related offence, you are then prohibited from performing that role. In that sense we have a range of options in terms of the positive obligation to obtain a licence, but also what we might call negative licensing in terms of prohibiting certain types of people from participating in the industry. So under the umbrella term of licensing and really looking at the intent of trying to achieve accountability, and through accountability looking at who can perform that role in the regulatory system, there is that range of options there about how we achieve that.

MR PARTON: In regard to the assessment of, at this stage let us call it a failed Queensland rollout, how would you characterise exactly what happened in Queensland? Based on your assessment, because you must have been looking at it very closely, how would you characterise what has happened in Queensland to push them to pull the rug on their scheme?

Ms Vassarotti: I think it would be folly to ask the politician in the room to go into the analysis of the failings or not of another jurisdictional model, so I might look to the experts for any reflections that we have taken in terms of thinking about our potential scheme for the ACT.

Mr Bennett: In our recent conversations with Queensland, and I will not breach any confidences, Queensland are looking at that full range of options to make developers more accountable. I think they are looking to release a similar sort of discussion paper now and are really back to that discussion/consultation point in the process, where they are going to put a range of options forward and seek community feedback on what is appropriate. So I think they have taken their process right back to, "Let us have a broad conversation again about where things sit and what we want to achieve here."

MR PARTON: But how would you characterise what they did wrong and why we are not going to do that?

Mr Bennett: I do not know the exact details of their experience there.

THE CHAIR: Minister, along with reform and change I am also very interested in the seven star building measures that we have. I am particularly excited to see these in a changing climate on the basis that we simply cannot be building unliveable homes. Can you run me through what these requirements will mean and maybe what your conversations with the industry have been?

Ms Vassarotti: I am excited about the fact that we will see a new Construction Code operating from October 2023 that requires the seven stars. This is a really significant achievement. As you know, it is really important, particularly in the context of climate change and particularly for a climate such as ours which has the extremes. It will be really important for us in all seasons.

At the very broadest level, there are two elements of the seven stars. One is around a minimum level of thermal performance for all new homes. That is under the NatHERS, which is the Nationwide House Energy Rating Scheme, and that looks at thermal comfort for people. There is also a new whole-of-home energy use budget that needs to be met as well, which looks at how much energy is being used for heating, cooling, hot water, lighting, swimming pools and that kind of thing. So you have a budget that you will need to work towards.

I will look to Mr Bennett in terms of talking about some of the work that we have been doing around the implementation process. There are some transitional things that we need to work through with industry. That is one of the reasons we gave a 12-month transition phase for this part of the Construction Code, to ensure industry are ready. It is published now and so industry members are able to work to it right now, but it will be mandatory from October 2023. I will ask Mr Bennett to give a bit more information about the work that has happened to date and will be happening over the coming months, around consultation with industry.

Mr Bennett: The building ministers decided to implement the changes in late August. Those changes were published through the ABCB in October 2022, at the start of October. As the minister said, there are transition periods in place for the main provisions of NCC 2022. They will commence in May 2023 and then the energy efficiency provisions will be commencing in October 2023.

We have regular engagement with our building industry stakeholders. We have been having preliminary discussions with them about the sorts of issues we need to talk with them about for the specific ACT implementation of the National Construction Code. As we go forward over the coming months, we will be having some really detailed targeted conversations about what that looks like here, especially for the energy efficiency provisions, and looking at what that means for significant alterations and additions to houses, and how those new energy efficiency provisions, as the minister mentioned in terms of the whole-of-home energy assessments and the energy budget, will be applied through things like alterations and additions. So we are really keen to seek that informed industry feedback on those provisions and how that will work. We are starting from the point where the information is public about what

is in the new provisions and people have that advance notice about what they will need to comply with.

THE CHAIR: What has been the response from other groups, like ACTCOSS and owners' corporations, and maybe some of the people at the other end of those reforms?

Ms Vassarotti: There were certainly some industry players that had some apprehension around the introduction of these measures, but from a range of groups like the Green Building Group and some of the consumer groups there has been really positive response to these. Particularly if you look at the issue of renting and what opportunities there are for renters to live in homes that are comfortable, it is really a point about bills. That is where we are going to have the most ability to ensure that, both from an energy efficiency perspective and also from a human health and comfort perspective, that is where we have the best opportunity to get something in place that will really work for renters, which we know are a growing part of the community.

We have had really positive responses both from consumer groups and industry groups. The Institute of Architects has been really positive about it. Many groups have some questions around some of the elements of it. I think that issue of renovations and alterations is a good one, about how you manage that when you are not looking at the whole house. We do not want to create disincentives in the circular economy in terms of reaching standards, which is why we want to talk to the community.

THE CHAIR: Has the government done any modelling or is the government likely to do any modelling on the sorts of financial savings people might make with these sorts of changes?

Ms Vassarotti: In terms of the decision-making process at a national level, it was both a consultation regulatory impact statement and a decision regulatory impact statement, and that did look at the differences across different climatic areas. That is publicly available. Certainly, from the ACT's perspective, it did deliver significant savings for individual households.

THE CHAIR: Thanks.

MS ORR: Can I just clarify: on the climatic zone that the efficiency sits within, what climate zone is it? It has been a while since I have looked at it. Is that the same one as Tasmania? What I am getting to is: is it going to the colder areas in looking for energy efficiency?

Ms Vassarotti: I will need to check the details.

MS ORR: That is all right. Don't stress too much about that, because this is where my question is going. When looking at the efficiency, I know that there is a huge focus, in our climate, on the cold. I am wondering what work is being done on managing the extreme cold that we have, by Australian standards, but also the incredible heat that we have, by almost any standard, that is now becoming quite particular to our geographical area?

Ms Vassarotti: We might need to take some of the detail of that question on notice. I will just check with Mr Bennett whether or not we do. I am not sure if we are in the same climatic zone, potentially because of what you are talking about. My understanding is that it does take into account a seasonal approach, but I will look to Mr Bennett, if you do not mind.

MS ORR: I think that is the first time we have stumped Mr Bennett today. That is all right; a bit of homework for you.

Mr Bennett: I can confirm that the ACT is in the same zone as Tasmania.

MS ORR: Is it eight?

Mr Bennett: That is a level of detail I cannot get to; sorry.

MS ORR: Yes. There we are. I win the pub quiz for today! Can you please take that on notice, considering that my understanding—and I am happy to be wrong—is that that climate zone in particular is focused on containing heat. What are we doing in the ACT to solve the problem that we have, which Tassie does not have, of letting go of heat in high summer temperatures?

Ms Vassarotti: Yes. We can certainly take the detail of that on notice. The energy efficiency standards, particularly looking at issues such as ventilation and air tightness, are issues that will actually deliver benefits for both winter and summer. With some of the energy efficiency appliances, that absolutely takes you down the route of appliances such as reverse-cycle air conditioning, which again provides benefits at both ends of the scheme. We will provide some additional information regarding particularly the extreme heat issues and how the NCC seven stars responds to that issue.

Dr Brady: Minister, I can clarify: it is seven and eight for ACT and it is seven and eight for Tasmania as well.

MS ORR: All right. I have no more hard questions like that one for you. Just back to developer licensing, if you are putting the discussion paper out at the end of the year, what is the consultation period you are anticipating for that, and when would you be looking to implement any recommendations or any outcomes that come from that discussion?

Ms Vassarotti: In terms of putting out a discussion paper by the end of the year, we would be taking into account the impact of summer shutdown on any consultation. It is not something that we would ram through over Christmas and New Year.

MR PARTON: Not this one?

Ms Vassarotti: No. We really wish to hear industry, community and stakeholder feedback on this issue. Again, we want to deliver this within the term of government, really getting into the meat of it and developing a proposal, but any legislative requirements, we would be saying, would be happening in 2023.

MS ORR: With the discussion paper, then, several months is probably the ballpark that we are looking at for consultation on that?

Dr Brady: Our initial view would be that we would undertake stakeholder—so more targeted—consultation. We would go through a review with the minister and then probably start targeted stakeholder consultation, which is a bit similar to what we did with engineer registration. We have been doing targeted stakeholder consultation for a while to get it refined before we go to broader consultation. At the moment we are thinking about possibly a similar approach.

MS ORR: So really anything that comes of that process would be looking at late 2023 at the earliest?

Ms Vassarotti: In terms of a finalised scheme?

MS ORR: Well, the statement of a position and any implementation, yes.

Ms Vassarotti: In terms of an implementable scheme, yes. I think that is a reasonable expectation.

MR PARTON: Does anyone want to talk about the loose-fill asbestos coordination team?

Dr Brady: We like to talk about them. They have done great work. Yes.

MR PARTON: Okay. That loose-fill asbestos coordination team will oversee the remaining homes. It is 23 affected homes, isn't it?

Ms Vassarotti: That is right.

MR PARTON: How many FTEs actually make up the team and what is the annual budget for the employees for that program? I understand that you may need to take that on notice.

Ms Vassarotti: I think we might have the details on the number of staff. That will be something that Mr Green will be able to provide you with very shortly.

MR PARTON: You have a rest, James.

Ms Vassarotti: There are 23 affected properties, so it is a far cry from the 1,029 properties that we had at the start of the process.

MR PARTON: Yes. While he is looking for that, what activities will actually define what we would all see as the natural end of this program and when do we expect that will be?

Ms Vassarotti: I might need to get Mr Green to confirm this: it is really over the next 18 months to two years that we will see that. There are 23 properties, but there is

some complexity with some of those properties. We always leave the best until last, Mr Parton. So there will be a continuing piece of work. We also recognise that, over the next period of time, we might identify a number of new properties. That is just the nature of this program. We want to make sure that we do not lose the corporate knowledge and expertise that we have built up. We would see that, over that 18 months to two years, we would be able to transition to a process where it is very much business as usual, while not losing the expertise. I will look to Mr Green now to confirm the number of FTEs.

Mr Green: I have read and acknowledge the privilege statement. We have seven FTE within the team at the moment. There was money provided within the 2022-23 budget to establish that team. That team will look to operate for the next 18 months, as we transition from the scheme to a business as usual approach. One of the things that we will be continuing to work on is a series of legacy projects that we are undertaking, one of which was funded in the budget. This year, establishing a place of reflection will be a key piece of work, but, as the minister has said, we need to make sure that we do have the right systems, processes and procedures in place to support the Canberra community if there are other homes that identify with Mr Fluffy asbestos in them.

We are working towards, as part of the work under the transition rules, preparing a report for the minister to consider tabling in the Assembly as a closure report. I think it is important to recognise that over the past eight years there has been a significant amount of work done by the territory and by the community in dealing with this significant issue. It is a very emotive and challenging program that has been delivered over that time. It is important to reflect upon that and the impact that it has had on not only the Canberra community but plenty of people that have either lived or worked in homes that contain Mr Fluffy asbestos.

It is important that we sensitively recognise the work and the importance of the work of the task force. One of the key projects that we have, going forward, as a bit of a highlight, is the place of reflection. It was good to see government allocating \$165,000 in this year's budget to provide and establish a forest shelter at the National Arboretum. We have been engaged with the community and the expert reference group that was established in the time of the task force to make sure that that is something that we can sensitively develop to recognise the community. We will soon be going out to community in relation to some of the aspects associated with that to deliver this place of reflection this financial year.

THE CHAIR: Mr Green, I might hit pause there. Thank you so much for that evidence, but we have run out of time today. I would encourage my colleagues to lodge any further questions on notice. Thank you very much for providing such great details. The committee's hearing for today is now adjourned. On behalf of our committee, thank you, Minister Vassarotti, and thank you, officials, for coming. If anyone has taken questions on notice—I am not sure if we had any—

Ms Vassarotti: I think we had one.

THE CHAIR: Excellent; yes. If you can get those answers to the committee secretary within five working days of receipt of the uncorrected proof, that will help us meet our deadlines. Members, if you would like to lodge questions on notice, please get those to the secretary within five working days. You are all free to go.

The committee adjourned at 5.47 pm.