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

TENTH ASSEMBLY

**GOVERNMENT AMENDMENTS
TO THE
PROPERTY DEVELOPERS BILL 2023**

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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PROPERTY DEVELOPERS BILL 2023

This supplementary explanatory statement relates to the Government amendments to the Property Developers Bill 2023 (the *Bill*). It has been prepared to assist the reader of the Bill and the amendments and to help inform debate. It does not form part of the Bill or the amendments.

This statement is to be read in conjunction with the Bill and the explanatory statement prepared in support of the Bill, as introduced in the Legislative Assembly on 30 November 2023. It is not, and is not meant to be, a comprehensive description of the amendments.

The Bill is a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

The Bill:

- Establishes a licensing scheme for individuals and entities that construct a regulated residential building.
- Establishes a regulatory scheme to bring property developers into the regulatory chain of accountability for building work they are involved in.
- Imposes obligations on individuals and entities that construct a regulated residential building.
- Creates a statutory presumption that a claimed defect is a defect unless the builder and/or property developer prove to the contrary for a time-limited period.
- Extends the application of existing statutory warranties for residential building work to property developers to provide consumers with legal recourse directly to both the property developer and the builder if there are defects in residential building work to which the warranties apply that amounts to a breach of statutory warranties.

OVERVIEW OF THE GOVERNMENT AMENDMENTS

The Government amendments respond to recommendations from the Standing Committee on Planning, Transport and City Services (the Committee) Inquiry into the Property Developers Bill 2023. They also address concerns raised from ongoing internal and external stakeholder consultation, and address unintended consequences. They also include minor and technical amendments.

The Government amendments:

- set out that the regulatory powers in the Bill will only apply to building work undertaken following the commencement of the Bill and will not have retrospective application;
- confirm that the Property Developer Registrar is the Construction Occupations Registrar;

- ensure that the scope of the Bill aligns with the key priority of managing the risks of developing larger numbers of residential buildings and in doing so limits the opportunity for unintended consequences on smaller scale development. This amendment provides that the scheme only applies to a “regulated residential building” which is defined as a residential building constructed as part of a project to construct three or more dwellings. This means that single dwellings, dual occupancies, and the construction of secondary dwellings are not captured by the scheme, as they are already appropriately regulated by the *Building Act 2004* and the *Construction Occupations (Licensing) Act 2004*. This also excludes renovations and alterations to existing buildings from the coverage of the scheme. Overall, this approach simplifies the drafting and provides a clear threshold for when a licence is required, consistent with the policy position previously agreed by Government.

CONSULTATION ON THE PROPOSED APPROACH

Consultation has been undertaken with key industry and Government stakeholders on the Government amendments. No public consultation has been undertaken on the Government amendments. Public consultation was undertaken on the development of the developer licensing and regulation scheme. The Government amendments do not fundamentally change the policy position consulted on.

The Government will work closely with industry and the community to support the implementation of the Bill.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the Government amendments, due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (HRA). A full human rights analysis is provided in the explanatory statement for the Bill.

An assessment of section 28 of the HRA is provided below for the Government amendments. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Rights engaged

The Government amendments engage the following sections of the HRA:

- Section 12 – Privacy and reputation (promoted and limited)
- Section 21 – Fair trial (promoted and engaged)

Rights promoted

The right to privacy and reputation (section 12) is promoted by new clause 13 (1) (g), which clarifies that the registrar, in deciding whether an application for a licence is a suitable person, must consider if the applicant was an executive officer of a corporation within two years before the corporation was placed into administration, receivership or liquidation. This promotes the right to privacy and reputation as it limits the information the registrar must consider as part of the application process.

Without this amendment the registrar would be required to consider whether at any time in the past the individual was an executive officer of a corporation that had been placed into administration, receivership or liquidation. This approach is no longer necessary to achieve the objectives of the Bill.

The right to a fair trial is promoted by the amendment to clause 53 to insert a new requirement for an emergency rectification order to include a detailed written statement of the reasons, or a summary of reasons, for making the emergency rectification order. This promotes the right to a fair trial as it gives the property developer important information to enable them to understand why the emergency rectification order was issued, as well as to assist with rectifying identified defects in the building.

The right to a fair trial is further promoted by the amendments to the commencement provisions to ensure that the Bill does not apply retrospectively. This promotes the right to a fair trial as the regulatory powers in the Bill will only apply to building work undertaken following the commencement of the Bill.

The right to a fair trial (section 21) is engaged by the amendment to clause 68 to remove the clause which provides that the property developer may apply to the Supreme Court to have a rectification order, stop work order or compliance cost notice revoked or varied. This clause is removed as unnecessary and in response to consultation and comments from the Standing Committee that these first be a reviewable decision by the ACT Civil and Administrative Tribunal (ACAT). This amendment engages the right to a fair trial as the ACAT pathway may allow for an expedited process for challenges, however does not reduce the ability for an appeal of the ACAT decision to be made to the ACT Supreme Court.

Rights limited

Right to privacy and reputation

The right to privacy under section 12 of the HRA protects people in the ACT from 'unlawful' interference with their privacy. This means that no interference can take place except in cases authorised by law.

The right to privacy also protects against arbitrary interference relating to an individual, an individual's family, home or correspondence, even when authorised by law. Such interference should be in accordance with the provisions, aims and objectives of the HRA and be reasonable in the particular circumstances. Arbitrary interference in someone's private or family life is interference that may be lawful, but is unreasonable, unnecessary and the degree of interference is not proportionate to the need.

The protection of privacy is necessarily relative, and personal information should only be collected where it is in the interests of the community. The right to privacy is therefore not absolute and may be reasonably limited by laws which can be demonstrably justified in a free and democratic society.

Nature of the right and the limitation (s28(a) and (c))

The Government amendments limit the right to privacy in several instances. The Bill engages the right to privacy at a broad level by establishing a licensing scheme where none currently exists and will now require certain residential property developers to become licensed in order to carry on a business as a property developer.

The Government amendment to clause 15 to permit the registrar to request additional reports as prescribed by regulation as part of an application for a property developer licence may limit the right to privacy pending the nature and content of the reports. The requirement for these additional reports will be set out in regulation with an accompanying explanatory statement justifying any limitations on the right to privacy.

An additional report may include existing reports on community housing providers from the community housing registrar, which could cover matters such as any breaches of compliance requirements. This report could be used instead of requiring a report from a ratings agency, as it covers much of the same information, and this would reduce regulatory burden. This will be determined by the registrar on a case-by-case basis.

The Government amendment to clause 27 (1) (e) requires a licensee to notify the registrar about entering into an off-the-plan contract before a Development Application (DA) or Building Approval (BA) is applied. This may limit the right to privacy, as additional information may be being provided to the registrar. This is considered a notifiable event due to the risk to project completion and exposure of purchasers.

The right to privacy may also be limited by proposed new section 27A which allows the registrar to request access to a rating report in limited cases. This may occur where a licensee notifies the registrar about a change in circumstances, and the registrar may proceed to request a rating report.

The registrar retains the power to commission a rating report on the licensee, and this amendment adds the power for the registrar to request this from the licensee. This will add transparency to the process, so the licensee is aware of the information being considered by the registrar to make a decision.

Legitimate purpose (s28 (b))

The Government amendments that engage the right to privacy promote the legitimate objective of the Bill, which is to promote good property development outcomes, increase community confidence in the property development sector, and protect consumers from poor building quality and unsafe buildings.

Rational connection between the limitation and the purpose (s28 (d))

The Government amendments that include the collection, use and disclosure of personal information are directly linked to achieving the objectives of the Bill.

The amendment to clause 15 to permit the registrar to request additional reports, and new section 27A which allows the registrar to request access to a rating report in limited cases, will provide additional information to the registrar to inform a decision whether to grant a licence to a property developer. The information sought is limited to information that is necessary for and relevant to the determination of applications.

The amendment to clause 27 (1) (e) to require a licensee to notify the registrar about entering into an off-the-plan contract when this occurs before a Development Application (DA) or Building Approval (BA) is applied for aligns with the objectives of the Bill, as it introduces risk to project completion and purchasers.

Proportionality (s28 (e))

The disclosure of personal information required by the Government amendments is limited to the minimum requirements that are relevant and necessary to assess a licence application and provide the public with information about licensed property developers. Further, information required by the Government amendments is limited to a report prescribed by regulation which may include a regulatory report provided to the Registrar of Community Housing Providers which they use to determine whether the provider has the capacity to comply with the performance requirements and outcomes of the National Regulatory Code Housing Australia Future Fund (HAFF). Any regulation made to require such a report will include a human rights analysis in its explanatory statement.

A request to receive a rating report from an existing licensee will be on a case-by-case basis, noting that the registrar already has the power to obtain a rating report on an entity (as set out above).

Individuals seeking to obtain a property developer licence will be informed about the process at the time they apply. They will give their consent to their information being checked. Should they be granted a licence, they will accept the obligations placed on them as licensed property developers and accept that for the licensing scheme to operate there will need to be ongoing collection, use, disclosure and storage of relevant personal information.

These powers impose a reasonable and proportionate limitation on the right to privacy. Any less restrictive means, namely not having these powers, would compromise the effectiveness of the licensing and regulation scheme.

Climate Change Implications

There are no climate change implications from the Government amendments.

CLAUSE NOTES

Amendment 1

Clause 2

Page 2, line 4—

This amendment omits and substitutes the commencement clause with a new commencement clause. The new commencement clause provides that the Act (other than the licence requirement provisions and any remaining provisions) commence on notification and that the licence requirement provisions and any remaining provisions commence on a day fixed by the Minister by written notice.

This will ensure that the regulatory powers in the Bill only apply to building work undertaken following the commencement of the Bill.

For the rectification order provisions to apply from the date the Bill is passed, the enforcement powers will need to be enlivened. Therefore, it is proposed to commence Parts 6, 7, 10, 11, 12 and 13 from the day after the Act is notified.

Amendment 2

Clause 6 (2) (c)

Page 4, line 19—

This amendment clarifies that the objects of the Bill in respect to rectification of serious or possible serious defects apply to *regulated* residential buildings.

Amendment 3

Part 2

Page 5, line 1—

This amendment omits the appointment of the Property Developer Registrar and the appointment of the deputy registrars. The appointment of the registrar is now at amendment 77 which defines the registrar to mean the construction occupations registrar.

Amendment 4

Clause 11 (c)

Page 7, line 13—

This is a minor and technical amendment consequential on the changes made at amendment 63.

Amendment 5

Clause 12 (4), definition of *professional*, example

Page 9, line 9—

This is a minor and technical amendment to align with current drafting practices.

Amendment 6

Clause 13 (1) (a)

Page 9, line 25—

This is a minor and technical amendment that omits clause 13 (1) (a) and substitutes with a new clause 13 (1) (a) that removes the examples of factors that go to an

applicant's character. This does not mean that those examples are not factors that will be taken into consideration.

Amendment 7

Clause 13 (1) (g)

Page 10, line 20—

This amendment omits clause 13 (1) (g) and substitutes with a new clause 13 (1) (g) which clarifies that the registrar, in deciding whether an applicant for a licence is a *suitable person*, must consider if the applicant was an executive officer of a corporation within 2 years before the corporation was placed into administration, receivership or liquidation. Currently the provision requires the registrar to consider whether at any time in the past the individual was an executive officer of a corporation that had been placed into administration, receivership or liquidation. This approach is no longer necessary to achieve the objectives of the Bill.

Amendment 8

Clause 15 (2) (b)

Page 11, line 23—

This amendment omits clause 15 (2) (b) and substitutes with a new clause 15 (2) (b) that provides that a licence application must include, if requested by the registrar, any other report prescribed by regulation in addition to a rating report.

Amendment 9

Clause 23 (2), example 1

Page 16, line 11—

This is a minor and technical amendment consequential to changes to the definition of regulated property development activities.

Amendment 10

Clause 24 (b) (ii)

Page 17, line 7—

This is a minor and technical amendment to correct a cross-referencing error.

Amendment 11

Clause 25 (1) (b)

Page 17, line 15—

This is a minor and technical amendment to correct a cross-referencing error.

Amendment 12

Clause 27 (1) (e)

Page 19, line 17—

This amendment omits clause 27 (1) (e) and substitutes with a new clause 27 (1) (e) that provides that notifying the registrar about a change of circumstances includes

entering into an off-the-plan contract for the sale of a regulated residential building. This requirement exists in other parts of the Bill.

Amendment 13

Clause 27 (3), proposed new definition of *off-the-plan contract*

Page 19, line 25—

This is a minor and technical amendment to align with definition of *off-the-plan contract* with the definition in section 19AA (1) of the *Civil Law (Sale of Residential Property) Act 2003*.

Amendment 14

Proposed new clause 27A

Page 19, line 25—

This amendment inserts a new clause 27A. This new clause provides that the registrar may request a rating report if the licensee applies to vary a licence, or notifies the registrar about a notifiable event.

Amendment 15

Clause 28 (2) (d)

Page 20, line 12—

This amendment adds the requirement for the registrar to keep director identification numbers on the register of licensed property developers, in addition to the names of current and former directors for the licensee and associated entities of the licensee. A director identification number is a unique identifier that a company director is required to obtain from the Australian Business Registry Services. Compliance is monitored by the Australian Securities and Investments Commission. Publishing details about licensed and former licensed property developers allows members of the public and industry to access information required to enable them to make informed choices when entering an agreement with a property developer.

Amendment 16
Proposed new clause 28 (6)
Page 21, line 15—

This amendment inserts a definition of *director identification number* as set out in section 9 of the *Corporations Act 2001* (Cth).

Amendment 17
Clause 35, definition of *regulatory action*, paragraph (b) (ii)
Page 28, line 5—

This amendment updates the definition of *regulatory action* in clause 35, to refer to *residential development activities* instead of *residential building activities* and is consequential on the changes made at amendment 80.

Amendment 18
Clause 41 (1) (a)
Page 31, line 19—

This is a minor and technical amendment to correct an error in the division reference in proposed section 41.

Amendment 19
Clause 47
Page 36, line 4—

This amendment omits clause 47 and substitutes with a new clause 47 that provides that Part 6 of the Bill (which relates to rectification orders, stop work orders and undertakings) only applies to residential building work that is issued with a development approval on, or after, this provision comes into force. This means that the rectification orders, stop work orders and undertakings cannot be applied retrospectively.

Amendment 20
Clause 49 (1), definition of *property developer*, paragraph (b)
Page 37, line 8—

This amendment clarifies that the owner of the land is the owner of the land when the regulated residential building work is done.

Amendment 21
Clause 49 (1), definition of *property developer*, paragraph (d)
Page 37, line 11—

This amendment adds the term regulated before “residential building” in the definition of *property developer* to clarify that a person is only considered a property developer if the project involves a regulated residential building.

Amendment 22**Clause 49 (3), definition of *commencement notice*****Page 37, line 18—**

This amendment inserts before commencement notice “*building*” to align the definition with other provisions in the Bill, as well as the *Building Act 2004*.

Amendment 23**Clause 49 (3), definition of *principal builder*****Page 37, line 22—**

This amendment amends the definition of *principal builder* consequential on the changes made at amendment 22.

Amendment 24**Clause 51 (1) (b)****page 39, line 26—**

This is a minor and technical amendment consequential on the changes at amendment 78.

Amendment 25**Clause 52 (5)****Page 41, line 12—**

This amendment omits clause 52 (5) and substitutes with a new clause 52 (5) to provide that a copy of a rectification order must be given to the owners of the land on which the residential building work is undertaken, or, for a regulated residential building under a units plan, the unit owner and the owners corporation.

Amendment 26**Clause 52 (6), definition of *10-year period*****Page 41, line 21—**

This amendment omits the definition of *10-year period* and substitutes with a new definition of *10-year period* to clarify what the 10-year period means in relation to when a building action may be brought in relation to residential building work, so that this period is now aligned to section 142 of the *Building Act 2004*.

Amendment 27
Clause 53 (3)
Pag 42, line 23—

This amendment omits clause 53 (3) and substitutes with a new clause 53 (3) that provides that for an emergency rectification order, a detailed written statement of reasons must be provided. Clause 53 (3) currently provides that an emergency rectification order may contain a summary of reasons. These amendments better support the objective of the Bill and are considered to meet the principles of procedural fairness and natural justice.

Amendment 28
Proposed new clause 54 (3A)
Page 43, line 30—

This amendment inserts a new clause 54 (3A). This new clause clarifies that clause 54 (3) does not apply to a property developer given a copy of a rectification order only in accordance with clause 52 (5) (a).

Amendment 29
Proposed new clause 55 (4) and (5)
Page 45, line 8—

This amendment inserts a new clause 55 (4) and 55 (5). Clause 55 (4) provides that clause 55 does not apply to a person who was a director of a territory entity or a Commonwealth or state entity. Clause 55 (5) inserts a definition of *Commonwealth or State entity*.

Amendment 30
Clause 63 (1) (a) (i)
Page 49, line 9—

This amendment clarifies that stop work orders apply to *regulated* residential building work.

Amendment 31
Clause 63 (5) (a)
Page 50, line 15—

This amendment is a minor and technical amendment for consistency. In the Bill, residential building work and residential development activities are undertaken and rectification work is done. Further, in the *Building Act 2004*, building work is carried out and in the *Planning Act 2023*, development and building work is undertaken.

Amendment 32
Clause 63 (5) (b)
Page 50, line 16—

This amendment omits clause 63 (5) (b) as the registrar is the construction occupations registrar.

Amendment 33
Clause 63 (6), definition of *relevant provision*
Page 50, line 21—

This is a minor and technical amendment to address descriptive text in relation to the provisions referred.

Amendment 34
Clause 64 (1) to (3)
Page 51, lines 6, 11 and 16—

This is a minor and technical amendment to clarify that the offence of failing to comply with a stop work order issued only applies to a stop work order issued under clause 63 (2).

Amendment 35
Clause 65 (1)
Page 52, line 3—

This amendment omits clause 65 (1) and substitutes with a new clause 65 (1) which provides that the registrar may accept a written undertaking (compliance undertaking) from a property developer, *or a director of a property developer*, in relation to residential building work.

Amendment 36
Clause 65 (2)
Page 52, line 7—

This amendment provides that a compliance undertaking may, in addition to the property developer, require *a director*, to undertake the actions set out in the clause.

Amendment 37
Clause 67 (1)
Page 53, lines 21 and 23—

This amendment omits all references to *property developer* in clause 67 (1) and substitutes it with *person*.

Amendment 38
Clause 67 (2)
Page 54, line 1—

This amendment omits everything in clause 67 (2) before paragraph (a) and substitutes clause 67 (2) and is consequential on the changes made at amendment 37.

Amendment 39
Clause 68
Page 54, line 18—

This amendment opposes clause 68 of the Bill. Clause 68 provides that a property developer may apply to the Supreme Court to have a rectification order, stop work order or compliance cost notice revoked or varied. These have been converted to ACT Civil and Administrative Tribunal (ACAT) reviewable decisions in Schedule 1. This does not prevent a property developer applying to the Supreme Court, but provides an appropriate avenue prior to that step needing to be taken.

Amendment 40
Clause 75 (4), proposed new definition of *property developer*
Page 60, line 20—

This amendment includes a definition of *property developer* by reference to proposed section 49 of the Bill.

Amendment 41
Clause 75 (4), definition of *relevant person*, proposed new paragraphs (ca) and (cb)
Page 60, line 26—

This amendment includes additional people within the definition of *relevant person*. The additional people are a property developer and a person who may have information, a document or other thing that is relevant to determining whether the Act has been contravened.

Amendment 42
Clause 109 (1), example
Page 88, line 25—

This amendment omits the reference to the construction occupations registrar in the example as the registrar is the construction occupations registrar.

Amendment 43
Clause 93 (3)
Page 73, line 17—

This amendment omits the reference to subsection (2) and substitutes a reference to subsection (2) (a), (b) or (c), in order to correct a cross referencing error.

Amendment 44
Clause 110 (2)
Page 84, line 10—

This is a minor and technical amendment to correct an error in the division reference in proposed section 110.

Amendment 45
Proposed new clause 110 (3)
Page 84, line 10—

This is a minor and technical amendment to include a definition of *ground for regulatory action* in this clause by reference to the definition in section 36 in accordance with current drafting practices.

Amendment 46
Schedule 1, part 1.2, new items 8A to 8D
Page 97—

This amendment inserts further decisions to the list of ACAT reviewable decisions, in relation to giving of rectification orders, stop work orders and compliance cost notices.

Amendment 47
Schedule 2, part 2.1
Proposed new amendment 2.1A
Page 99, line 3—

This amendment amends the note in the definition of *building work* in section 6 (1) of the *Building Act 2004* consequential on changes made by amendment 2.11 in Part 2.1, Schedule 2 of the Bill.

Amendment 48
Schedule 2, part 2.1,
Amendment 2.2
Proposed new section 27 (1A)
Page 99, line 14—

This amendment makes minor edits to Amendment 2.2 to clarify that this does not apply to a territory entity or a Commonwealth or State entity or a person or application excluded by regulation.

Amendment 49
Schedule 2, part 2.1,
Amendment 2.3
Section 27 (2), proposed new definition of *Commonwealth or State entity*
Page 99, line 17—

This amendment inserts a new definition of *Commonwealth or State entity* and is consequential on the changes at amendment 48.

Amendment 50
Schedule 2, part 2.1,
Amendment 2.3
Section 27 (2), proposed new definitions of *residential building* and *residential building work*
Page 100, line 1—

This amendment inserts new definitions of *residential building work* and *territory entity*.

Amendment 51
Schedule 2, part 2.1,
Amendment 2.9
Page 102, line 18—

This amendment omits the amendment consequential on the changes at amendment 50.

Amendment 52
Schedule 2, part 2.1,
Amendment 2.12
Page 103, line 12—

This amendment omits the amendment and substitutes it with a new amendment to include in section 84 of the *Building Act 2004*, definitions of *Commonwealth or State entity*, *property developer* and *territory entity* and is consequential on other Government amendments.

Amendment 53
Schedule 2, part 2.1
Amendment 2.13
Proposed new section 88 (2A)
Page 104, line 5—

This amendment is a minor and technical amendment to clarify that the statutory warranty in the *Building Act 2004* only applies to residential building work as defined in the Bill.

Amendment 54
Schedule 2, part 2.1
Amendment 2.17
Proposed new section 89F (1)
Page 105, line 11—

This amendment omits existing section 89F (1) and substitutes with a new 89F (1) which essentially amends “which” to “that” to clarify that (1) (a) and (b) is a restrictive relative clause.

Amendment 55
Schedule 2, part 2.1,
Amendment 2.17
Proposed new section 89F (4)
Page 105, line 23—

This amendment omits proposed new section 89F (4) and substitutes a proposed section 89F (4). The new section provides that nothing in this section affects the right of an affected party to claim from the builder, and any property developer, damages for any loss or damage to the affected party resulting from the defect that is reasonably foreseeable as a result of the defect.

Amendment 56
Schedule 2, part 2.1,
Amendment 2.17
Proposed new section 89F (8), definition of *residential building work*
Page 106, line 19—

This amendment omits the definition of *residential building work*, and substitutes it with a definition of *residential building work* in the Bill to align with current drafting practices.

Amendment 57
Schedule 2, part 2.1,
Amendment 2.18
Proposed new section 95A (2), definition of *residential building work*
Page 107, line 12—

This amendment omits the definition of *residential building work*, and substitutes it with a definition of *residential building work* in the Bill to align with current drafting practices.

Amendment 58
Schedule 2, part 2.1,
Proposed new amendment 2.18A
Page 107, line 12—

This amendment inserts a new amendment to the Dictionary, note 2 of the *Building Act 2004* to include cross-references to the definitions of *territory authority*, *territory instrumentality* and *territory-owned corporation* in the *Legislation Act 2001*.

Amendment 59
Schedule 2, part 2.1,
Amendment 2.20
Dictionary, proposed new definition of *Commonwealth or State entity*
Page 108, line 10—

This amendment inserts a definition of *Commonwealth or State entity* consequential on amendment 52.

Amendment 60
Schedule 2, part 2.1,
Amendment 2.20
Dictionary, proposed new definition of *territory entity*
Page 108, line 12—

This amendment inserts a definition of *territory entity* consequential on the changes at amendment 52.

Amendment 61
Schedule 2, part 2.2,
Amendment 2.23
Page 109, line 13—

This amendment omits the proposed amendment and substitutes it with a new amendment consequential to changes made to the heading of Part 4 of the *Building (General) Regulation 2008* consequential on the amendment 2.11 in Schedule 2, Part 2.1 of the Bill.

This amendment inserts new amendment 2.23A which amends section 37 of the *Building (General) Regulation 2008* consequential on changes made by amendment 2.11 in Part 2.1, Schedule 2 of the Bill.

This amendment inserts new amendment 2.23B which inserts a new section 37A into the *Building (General) Regulation 2008*. New section 37A excludes people from the definition of property developer in section 84 of the *Building Act 2004*. This amendment is consequential to the changes at amendment 52.

This amendment inserts new amendment 2.23C which amends Schedule 1, part 1.3, items 1 to 10, items 12, items 15 to 26 and item 28, column 3 of the *Building (General) Regulation 2008* consequential on changes made by amendment 2.11 in Part 2.1, Schedule 2 of the Bill.

Amendment 62
Schedule 2, part 2.4,
Amendment 2.25
Proposed new section 9 (1) (ja)
Page 110, line 6—

This is a minor and technical amendment to correct cross-referencing errors.

Amendment 63
Schedule 2, part 2.4,
Amendment 2.27
Proposed new section 19AA (1), definition of *off-the-plan contract*
Page 110, line 23—

This amendment omits and substitutes the definition of *off-the-plan contract* consequential on changes to what are regulated property development activities.

Amendment 64

Schedule 2, part 2.4,

Amendment 2.27

Proposed new section 19AA (1), new definition of *regulated residential building*

Page 111, line 6—

This amendment inserts a definition of *regulated residential building* by reference to the Bill in accordance with current drafting practices.

Amendment 65

Schedule 2, part 2.4,

Amendment 2.27

Proposed new section 19AB (1) (a)

Page 111, line 23—

This amendment clarifies that this only applies to a contract for the sale of a regulated residential building consequential on other government amendments.

Amendment 66

Schedule 2, part 2.4,

Amendment 2.27

Proposed new section 19AB (2) (a), new note

Page 112, line 8—

This is a minor and technical amendment to align drafting with current drafting practices.

Amendment 67

Schedule 2, part 2.4,

Amendment 2.27

Proposed new section 19AC (1) (a)

Page 112, line 15—

This is a minor and technical amendment to replace the reference to premises with a regulated residential building for consistency across the Bill.

Amendment 68

Schedule 2, part 2.4,

Amendment 2.27

Proposed new section 19AC (3) (a)

Page 113, line 2—

This is a minor and technical amendment to replace the reference to premises with a regulated residential building for consistency across the Bill.

Amendment 69

Schedule 2, part 2.4,

Proposed new amendment 2.31A

Page 115, line 5—

This is a minor and technical amendment consequential on other Government amendments relating to off-the-plan contracts and the restructuring of part 2A of the Bill.

Amendment 70

Schedule 2, part 2.4,

Amendment 2.36

Page 116, line 1—

This is a minor and technical amendment to include a definition of *regulated residential building* and other new definitions.

Amendment 71

Schedule 2, part 2.4,

Amendment 2.38

Page 116, line 9—

This amendment omits proposed amendment 2.38 consequential on the changes at amendment 70.

Amendment 72

Schedule 2, part 2.5,

Amendment 2.41

Proposed new section 162A (2A)

Page 117, line 16—

This amendment inserts new section 162A (2A) into proposed new section 162A to clarify that the section does not apply if the applicant is the Territory, the Commonwealth or a State, or a territory entity or a Commonwealth of State entity.

Amendment 73

Schedule 2, part 2.5,

Amendment 2.41

Proposed new section 162A (4), new definitions of *Commonwealth or State entity* and *regulated residential building*

Page 117, line 19—

This amendment inserts a definition of *Commonwealth or State entity* and *regulated residential building* consequential on amendment 72.

Amendment 74
Schedule 2, part 2.5,
Amendment 2.41
Proposed new section 162A (4), definitions of *residential building* and
residential building development
Page 117, line 24—

This amendment omits the definition of *residential building* from proposed new section 162A (4) of the *Planning Act 2023* as the term is no longer used in the proposed new section 162A.

This amendment omits the definitions in this section and substitutes it with a definition of *residential building development*.

Amendment 75
Schedule 2, part 2.5,
Amendment 2.41
Proposed new section 162B (5), definition of *residential building*
Page 119, line 6—

This amendment omits the definition of *residential building* consequential on other Government amendments.

Amendment 76
Schedule 2,
Proposed new part 2.6
Page 120, line 17—

This amendment inserts a new part 2.6 into Schedule 2. New part 2.6 contains consequential amendments to the Property Developers Act.

This includes an amendment to section 27 (3) of the Act in relation to the definition of *off-the-plan contract* consequential on the changes at amendment 63.

Amendment 77
Dictionary, definition of *registrar*
Page 123, line 28—

This amendment defines the *registrar* to mean the construction occupations registrar.

Amendment 78

Dictionary, proposed new definition of *regulated residential building*

Page 123, line 28—

This amendment inserts a definition of *regulated residential building* that defines a *regulated residential building* to be a class 1 or class 2 building that is part of a project that involves the construction of 3 or more dwellings. Class 1 and class 2 buildings are defined by the National Construction Code. This means that single dwellings, dual occupancies and adding secondary dwellings are not captured by the scheme, as they are already appropriately regulated by the *Building Act 2004* and the *Construction Occupations (Licensing) Act 2004*. This also excludes renovations and alterations to existing buildings from the coverage of the scheme. Overall, this approach simplifies the drafting and provides a clear threshold for when a licence is required, consistent with the policy position previously agreed by Government.

Amendment 79

Dictionary, definition of *residential building*

Page 124, line 20—

This amendment omits the definition of *residential building* consequential on changes at other Government amendments.

Amendment 80

Dictionary, definitions of *residential development activities* and *residential building work*

Page 125, line 1—

This amendment omits and substitutes the definitions of *residential development activities* and *residential building work*.

Residential building work means building work in relation to a class 1 or class 2 building for the construction of 3 or more dwellings. Class 1 and class 2 buildings are defined by the National Construction Code. This means that single dwellings, dual occupancies and adding secondary dwellings are not captured by the scheme, as they are already appropriately regulated by the *Building Act 2004* and the *Construction Occupations (Licensing) Act 2004*. This also excludes renovations and alterations to existing buildings from the coverage of the scheme. Overall, this approach simplifies the drafting and provides a clear threshold for when a licence is required consistent with the policy position previously agreed by Government.

The new definition of *residential development activities* clarifies that this applies to a *regulated residential building*.

Amendment 81

Dictionary, definition of *show cause notice*

Page 125, line 11—

This is a minor and technical amendment to correct cross-referencing errors.