

Submission  
No 41

**INQUIRY INTO REGULATION OF BUILDING  
STANDARDS, BUILDING QUALITY AND BUILDING  
DISPUTES**

**Name:** Name suppressed

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Partially  
Confidential

To Whom It May Concern

Thank you for inviting submissions in relation to the enquiry.

It must be said that the paper from the Government aims to introduce the registration of building designer as though it will be the panacea for all ills in the certification system. This is fundamentally flawed as designers cannot verify BCA compliance as that is not their specialist field. That is the domain of the Certifier and should remain with the Certifier.

It is more important that the NSW Government introduce the following changes:-

1. Provide surety to Certifiers, in legislation, that they are not liable at law beyond their scope of responsibility.

2. Introduce a PI Insurance scheme to ensure that PI insurance does not drive Certifiers out of the industry due to the insurance amount being commercially unviable. The introduction of the private sector to the role of building certification in NSW was instigated by the NSW Government with the aim of speeding up the certification process. If the private certification sector falls over, local Councils do not have the resourcing to provide an effective service for Mums & Dads in the building of their dream home. Existing constructions would be unable to be signed off at subsequent inspections and completion due to a Certifier not being allowed to perform their role without having compulsory PI insurance coverage in place. There is a school of thought also that the construction sector is at risk of not continuing to be a active driver of the positive economy that NSW currently has if there is no resolution to this dilemma.

3. The residential construction sector faced an identical scenario previously whereby Builders were unable to achieve insurance coverage. The NSW Government solution was to implement a Government managed insurance scheme that is still in place today. That system works well as it provides for a consistent assessment of risk and is a single point of truth. A similar Government instigated PI insurance scheme would provide a solution to the current issue.

4. All Certifiers are deemed public officials under the Independent Commission Against Corruption Act 1988 as well as being public authorities under the Ombusman Act 1974, and are subject to the requirements of both of these Acts. Private and Local Government Certifiers are also treated as equivalent by the Building Professionals Board. Therefore, cannot the protection provided by Cl. 731 LGA be applied to ALL certifiers given that they are both public officials and public authorities. This will mitigate the risk burden to private Certifiers.

5. Another issue that would mitigate the current crisis is the current requirement for Certifiers to have 10 years run off insurance whilst the Builder only has to provide coverage for a 6 year period. This anomaly defies logic considering that the Certifier has to provide longer cover yet they do not do the construction.

6. Introduce accreditation of Structural Engineers. Currently anybody can operate as a Structural Engineer in NSW. This is fraught with danger and cannot be allowed to continue.

A tenet of the NSW Government is to support small to medium business in NSW, as well as the public interest. Without intervention and leadership from the NSW Government as a whole to provide a workable solution for the industry, there are dark days indeed ahead..

I implore you to instigate a prompt solution that will maintain surety for the whole industry and thereby allow the whole construction industry to grow.

I would gladly meet with interested parties to elaborate on the peril that the building industry now faces.

Decisive and solution focused action by the Government will protect the community, Certifiers and their livelihood.