

**Submission  
No 71**

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

**Organisation:** Blue Mountains City Council

**Date Received:** 26 July 2019

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26 July 2019

Reference File: F00534

The Secretariat  
Legislative Council Public Accountability Committee  
Regulation of building standards,  
building quality and building disputes inquiry

Dear Sir/Madam,

**SUBJECT    Submission to the Regulation of building standards, building quality and building disputes inquiry**

Thankyou for the opportunity to make a submission in relation to the inquiry into the regulation of building standards, building quality and building disputes.

Due to the time constraints associated with the submission period and its meeting schedule, the elected Council has not had an opportunity to formally consider the terms of the inquiry prior to closing of the submission period. Given the implication of the inquiry's terms of reference for Council's throughout NSW, it would be expected that consultation periods would have enabled elected representatives to have sufficient time to respond.

However, on many previous occasions dating back decades, the local government sector, including this Council has raised its concerns about the deregulation of building standards, problems with private certification and the resulting decline in the quality of some new buildings. Recently, at its ordinary meeting of 29 January 2019, the Council resolved, in part:

1.     *That the Council notes the public concern about the building standards of the Opal Tower at Sydney Olympic Park as reported in December 2018;*
2.     *That the Council notes the NSW Government has decreased the role of councillors and councils in approval processes over recent years;*
3.     *That the Council notes the increased reliance on the use of private certifiers in recent years; ...*

In arriving at the above resolution, the Council considered a Mayoral Minute that outlined the background:

*"Councillors will be aware, the Opal Tower at Sydney Olympic Park is currently subject to a number of investigations due to structural defects which led to the evacuation of residents in late December 2018.*

*As a result, public concerns continue to be raised about shortcomings in NSW's private building certification system, which are believed to have contributed to the problems being investigated at the Opal Tower.*

*Blue Mountains City Council has consistently raised concerns about the private certification system since its introduction in the late 1990s. This system increasingly relies on certification by building certifiers who are contracted by developers and property owners.*

*Although the NSW Government has recently acknowledged community concern about building certification, it has also highlighted that a number of aspects of the building industry need to be reviewed. In line with this, a report by the University of NSW in 2015 indicated that about 85% of apartment buildings constructed since 2000 had defects, suggesting the need for systemic improvement”.*

The current system contains an in-built conflict of interest where private certifiers who have a regulatory function are directly paid by developers and property owners. It is clear this has resulted in less compliance with the regulations. It is concerning that the continual warnings about this system from various stakeholders, including this Council, have not been heeded. As a result, we have seen the continuing decline in confidence in the construction industry.

This Council is, again, advocating for improvements to the certification process to ensure the improved integrity of building standards and public confidence in the regulatory system.

It is beyond the scope of this submission to resolve all issues with the building certification process. However, a successful system must resolve the identified conflict of interest, must address the currently poor arrangements around compliance and the Building Professionals Board, and re-empower local government to provide high quality regulatory services.

Should you require any further information please contact Will Langevad, Director – Environment and Planning Services on 4780 5000.

Yours faithfully

Dr Rosemary Dillon  
Chief Executive Officer