

Submission
No 97

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

Name: Name suppressed

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Partially
Confidential

Inquiry – Regulation of building standards, building quality and building disputes

Introduction:

I am an Architect (aka Building Professional) and have been in the industry for over 35 years. I have worked for consulting architectural practices, major developers, and been seconded to building contractors throughout my career. I have dealt with State planning authorities, and local councils. I am a registered Architect in NSW and have undertaken all mandatory CPD, as required. I have therefore realised and witnessed many great achievements in the industry, from working on projects such as the Sydney Olympics to the Walsh Bay Redevelopment here in Sydney. On the other hand I have seen some failures in my career, particularly to do with 'process' and 'delivery' of large multi-residential projects. I am therefore, well informed to comment to this Inquiry.

The whole industry needs an overhaul at all levels.

The system is flawed in procuring and delivering real estate and housing stock. The current process has also proven that it is flawed in producing quality buildings.

Self-certification and deregulation has not worked since its introduction in the '80s. It was supposed to increase PRODUCTIVITY. This has only resulted in lessening of QUALITY, and therefore increasing the costs of rectification works, let alone decreasing the VALUE of the properties involved.

We, the community are all now paying for it, either directly through owning flawed apartments, or indirectly through tax and PI premium increases to pay for these blunders, like the combustible cladding fiasco.

Most are multiple dwelling in large developments, so the impact of one seemingly small defect is multiplied hundreds of times, resulting in large financial losses for the owners and occupants.

The proposed new BUILDING COMMISSIONER (and their Department) should have oversight of the whole (delivery) process, not just of design and documentation approvals. If it was taken away from Councils and given over to Private Certifiers, then it should reside back in the 'non-corruptible' public sector.

The process hasn't worked, because there is too much conflict of interest. Issues of greed and corruption by contractors and/or suppliers, most times trying to recoup costs and profits from pricing projects too low, in the 'race to the bottom', and developers seeking to maximise profit and return to their Directors and shareholders.

The Design and Construct (D&C) delivery process is also flawed, with too many changes made post contract and design, made by unknowledgeable contractors, all in their attempt to recoup costs – again. Many of these changes are often performed by Consultants and building professional that weren't initially involved in the approved design. It is not uncommon for new architects, structural engineers and fire engineers to be assigned to review others designs and solutions. This drastically increases the chances of creating errors in this redesign stage.

Private Certifiers are not building inspectors, and many have no knowledge of construction techniques. They are clerks, with checklists and forms to sign off all to serve the beurocratic machine, and make it appear that the systems works. Well, it has been shown that this is not the case. What is needed is

physical (or digital) inspection and sign off all critical stages (Hold Points) in the delivery and construction process.

All Contractors and Subcontractors should be made responsible for the delivery of their products the same as building professional (Architects and Engineers) who have Professional Indemnity Insurance to cover the costs of their errors, if any. PI insurance is increasingly hard to obtain because of this crisis, with many professionals either; not taking on 'risky' commissions; not being able to compete on a fees basis; or worse still leaving the industry altogether.

Contractors should be accountable for the base maintenance and livability of the buildings they deliver for a minimum period of say 10 years, so that critical elements that affect occupants' health and amenity, such as waterproofing and structural defects, have time to become apparent. Insolvency of Contractors should prevent the 'pheonixing' of other companies with the same or family related Directors. The Directors should be made accountable for their Companies failings, that is, be made bankrupt.

Architects, engineers are constantly pressured to reduce their fees and services that are not commiserate with the risk and costs (increased PI premiums) they are being asked to provide, such as guaranteeing 100% 'watertight' design and documentation, particularly for large and complex projects. In many instances these professionals are pressured for options and design solutions from developers and contractors they may be seconded to, in very short periods of time, so that they (the contractors) can save money in the construct. There is little or no time for checking to ensure that documentation is 100% correct.

Bear in mind that a very high proportion of 'failures' and subsequent costs come from faulty installation and building practices, not by designer errors. Refer to a report prepared by Dr. Nicole Johnston of Deakin University which examined the rising number of defects in apartment buildings. It noted that the highest number of defects related to water ingress and subsequent damage. This can be more often than not be traced back to inappropriate waterproofing products or installation techniques.

Solutions:

- Peer reviews. Time and costs to be borne by the Developer, Client or contractor.
- Quality Assurance – Costed and programmed into projects.

Recommendations:

Establish a joint government-industry taskforce, headed up by the Building Ministers Forum, to oversee urgent and consistent implementation of all Shergold-Weir report recommendations across all jurisdictions Federal, State and Local.

Register all building professional, including Contractors, and maybe Developers too, to ensure that appropriate insurances are current. That Architects and Engineers commissioned to design all major projects and buildings (Classes 2 to 9) are the same professionals engaged to document, inspect and certify the building from its design concept to its final handover stage, are produced to the current Codes and Standards. Like PCA's are now.

Reinstate the role of an independent “clerk of Works’ or building surveyor, who is independent of the builder, and is responsible for looking after the interests of the developer and designers.

If the Building Commissioner is to oversee the industry then it should be given some ‘teeth’, with regulations to allow them to independently check and audit a majority of prominent and significant developments.

Make developers and contractors pay for this service, all to ensure that ‘Occupation Certificates’ have been issued with all appropriate audits and checks made.

And if all else fails, and no decisions can be made on a nation level that binds standards of building delivery with Codes and Standards and general good practice, then establish a Royal Commission to look into the current delivery system.

My final message to the Government is, it’s taken nearly 40 years of deregulation to get where we are today, so regulate now to get it back to becoming a robust industry that is so crucial to our economy.

Conclusion:

In conclusion, I quote Dame Judith Hackett in her final report on the Grenfell Disaster, in which she says, “The current regulatory system for ensuring fire safety in high-rise and complex buildings *is not fit for purpose.*” I think I can safely say that this may apply to NSW also, in that there is a need for stronger and more effective enforcement in the industry, across all levels of the building procurement process, all “backed up with sufficiently powerful sanctions for the few who do not follow the rules.”

No government, no institution, and no building professional can guarantee that their work, and what they produce, is 100% correct and guaranteed not to fail. We can however, go a long way to raising these levels from the depths that they have sunk over the past years, to new heightened levels that the community and the industry will be comfortable to accept. This can be achieved by ensuring quality and maintaining it through training and education of all those involved in the industry, as well as the regulatory change suggested above.