

Submission  
No 122

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

**Organisation:** The National Trust of Australia (NSW)

**Date Received:** 30 July 2019

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30 July, 2019

Mr David Shoebridge MLC  
Chair  
Public Accountability Committee  
Parliament House  
Macquarie Street, SYDNEY 2000

Email: [public.accountability@parliament.nsw.gov.au](mailto:public.accountability@parliament.nsw.gov.au)

Dear Mr Shoebridge,

### **Inquiry into the Regulation of Building Standards, Building Quality and Building Disputes**

The National Trust of Australia (NSW) welcomes this opportunity to provide a submission to the Committee on its Inquiry into the Regulation of Building Standards, Building Quality and Building Disputes. Our comments are based largely on the Trust's Position Paper - *Heritage, Accredited Private Certifiers and Building Approvals*, adopted in September, 2016.

Development Consent under the Environmental Planning and Assessment Act 1979 is required when works are proposed to places listed as a heritage item or included in a Heritage Conservation Area in a Local Environmental Plan or Draft Local Environmental Plan.

Approval under the Heritage Act 1977 is also required if the place is on the State Heritage Register or subject to an Interim Heritage Order under the Act (unless specific exemptions apply).

State Environmental Planning Policy (Exempt and Complying Development Codes) (the "Codes SEPP") that allows for a Complying Development Certificate to be issued by Council or an accredited private certifier for prescribed types of development, does not apply to such heritage listed places. There are some minor exceptions for detached outbuildings (like garden sheds) and swimming pools.

Heritage issues, however, can sometimes arise following development consent. Building plans are finalised and a Construction Certificate is needed before building works commence. A Council or private Principal Certifying Authority (PCA) has to be appointed to inspect work during construction, ensure that it is generally consistent with approved development plans and issue an Occupation Certificate.

Changes or interpretation of the approved development and its conditions can occur as building plans are finalised and building proceeds. Existing houses can be gutted and existing fabric can be destroyed.

Inappropriate details can have significant impact on listed items and conservation areas. These are often the consequence of action by Principal Certifying Authorities or failure to inspect by Principal Certifying Authorities.



### **The National Trust's Position and Recommendations**

- The Trust recognises that most Principal Certifying Authorities and owners of heritage listed places contact Council for advice when minor changes to approved plans are necessary or desired. This does not always occur and post-development consent changes can result in poor heritage outcomes, cumulative adverse heritage impacts and the loss of existing heritage fabric.
- The Trust further recognises that many Principal Certifying Authorities may not have the necessary heritage skills or experience to evaluate the heritage impact of proposed 'minor' changes and suggest better alternatives to owners.
- The Trust believes that this issue could be managed positively by ensuring Principal Certifying Authorities are properly informed and trained in heritage conservation, interpreting heritage controls in local plans and understanding heritage related conditions of consent. Principal Certifying Authorities and owners should also be encouraged (or required) to call Council's heritage planner/advisor when post-consent amendments are being considered.

Yours sincerely,

Graham Quint  
Director, Conservation