

Submission  
No 148

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

**Organisation:** Cooks Hill Community Group Inc

**Date Received:** 4 August 2019

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TO: Public Accountability Committee - Regulation of building standards, building quality and building disputes

public.accountability@parliament.nsw.gov.au  
FROM: Cooks Hill Community Group Inc

RE: Regulation of building standards, building quality and building disputes

Cooks Hill Community Group Inc (CHCG) is a residents group in Cooks Hill, an inner city suburb of Newcastle. One of the primary objectives of the group is to represent the interests of residents whose amenity is impacted by developments. We request that you accept this as a submission to the enquiry into Regulation of building standards, building quality and building disputes.

Our submission relates to the specific terms of reference (a) the role of private certification in protecting building standards, including: (i) conflicts of interest (ii) effectiveness of inspections (iii) accountability of private certifiers.

The particular case we refer to below relates a 4 storey apartment development at 29-31 Laman St Cooks Hill with City of Newcastle (CoN. ie Newcastle City Council ) being the consent authority. The approved Council DA is DA2015/0876.01. This site is located within the Cooks Hill Heritage Conservation Area.

Relevant facts:

- Residents identify that the developer has breached the consent and built outside approved DA (see CoN DA2015/0876.01) after the scaffolding is removed. Breaches include the building exceeding approved height by >0.5m; unauthorised extra floor space; unauthorised extra balconies; unauthorised windows overlooking neighbour; unauthorised openings to basement carpark facing neighbour; air conditioner placement et al. This unauthorised construction is in no way minor and has significant impacts on surrounding neighbours privacy, noise impacts and visual impacts on the surrounding Heritage Conservation Area. The breaches also contradict the reason for the approved DA which was clearly stated to be “improving the privacy of neighbours”.
- Residents contact Council who confirm that they have not received any notification of the breaches of consent by the Principal Certifying Authority (PCA). Council deny any responsibility in taking action and refer residents to the PCA.
- CHCG contacts Building Professionals Board who say council should be enforcing consent conditions.
- PCA agrees to meet with affected neighbours and CHCG. PCA inspects the site and agrees with residents regarding breaches. PCA provides in writing how breaches will be rectified and to what extent.
- Subsequently, no action is taken to rectify breaches as agreed and then the original PCA advises CHCG that the role of PCA has recently been taken over another PCA (located on the Central

Coast, not Newcastle). Developer then submits amended plans which will effectively approve all DA breaches retrospectively (still under consideration by CoN. See DA2015/0876.02 ).

- New PCA then advises he is issuing an Interim Occupation Certificate for the majority of building despite areas still subject to the DA process and written consent condition for the approved DA2015/0876.01 not being met.

In summary, this case highlights issues around the current development application and building regulation process and the role of private certifiers. In particular the option for developers to “shop around” for a PCA mid-process, the lack of any action by the consent authority (ie. council) and the lack of response by the Building Professionals Board. The community struggles to have any confidence in a system where processes such as detailed here are allowed to occur and where the negative impacts on residents amenity and the broader community are ignored.

Yours sincerely

Cooks Hill Community Group Inc