

**Submission  
No 9**

**INQUIRY INTO FURTHER INQUIRY INTO THE  
REGULATION OF BUILDING STANDARDS**

**Organisation:** Liverpool Council

**Date Received:** 8 August 2021

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Dear Committee Chair

Thank you for inviting Liverpool City Council to make a submission to the inquiry. The following comments are submitted in regards to the terms of reference. Please ensure that my name is removed if the submission is published.

**a) the efficacy and adequacy of the government's regulation of building standards and specifically,**

**(i) the cost, effectiveness and safety concerns arising from the use of flammable cladding,**

It is considered that the recent changes to the regulation of building standards, including the Building Products (Safety) Act 2017 and the Building Product Ban have been adequate to allow Councils to address the safety concerns arising from the installation of combustible cladding on buildings over the last few years.

Council has been able to identify affected buildings and obtain information on the installed cladding through the issue of fire safety orders under the Environmental Planning and Assessment Act 1979. These orders required owners to undertake an audit and provide product testing and other information on the cladding installed on their buildings.

Council was then able to issue rectification orders under the Environmental Planning and Assessment Act or the Building Products (Safety) Act 2017 to require owners to rectify cladding which had been found to be combustible. Good progress has been made in the rectification of the cladding on the buildings known to be affected.

During the process of cladding investigations and upgrades, it was communicated to Council by some owners that the cost of rectification of the cladding was very high. While some have been successful in getting the original builder to rectify the defective cladding, others have had to fund the works themselves despite purchasing a property which was recently issued with an Occupation Certificate and appeared to be compliant with the National Construction Code.

**(ii) private certification of and engineering reports for construction projects**

The whole issue of defect in newly completed buildings stems from inefficient action and responsibility by certifiers and building designers, and also the framework created by the NSW State legislation since implementation of private certification in the late 90s. For example many private certifiers do not follow the role of public officials. This has been shown time and again that a business trying to make profits and remain sustainable in the market have to keep clients happy, or lose business. Any report will clearly show that developers use private certifiers in lieu of Local Councils for the most significant and risky buildings. Local Councils have struggled to be competitive in a market dominated by private certifiers who either willingly, or by lack of knowledge and experience fail to comply with their obligations to the public. Building designers and engineers also often try to provide any outcome to keep their client happy. So relying on certification from these professionals can also be risky.

NSW allows autonomy of private certifiers who know they have little chance of being caught and even if they are, can continue to operate. The certifier disciplinary registered shows this, and this is only for the certifiers caught out, generally from Council or public complaints. Council receives numerous phone calls where the public are referred to Council by Fair Trading instead of logging and

investigating a complaint. This seems ludicrous from the authority empowered to oversee and investigate the actions of certifiers.

Legislation should be amended or introduced to require true independence between developers and certifiers. This could include an allocation style system for certification which would assist in breaking existing bonds created in the building and private certification industries.

**(b) any other related matter.**

There is a lack of appropriately qualified, trained and experienced certifiers both in Council and the private industry. Council has trouble recruiting experience people due to private competition, but also find private certifiers are not knowledgeable at an acceptable level. Accepted formal qualifications for certification have generally moved away from Building Surveying, and more to project management in Building and Construction courses. Knowledge of legislation, building practises, inspection and the role of a certifier seem to be significantly lacking in new graduates.

Should you require any further information please do not hesitate to contact me.

Regards,

Manager Community Standards

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