

**Submission  
No 68**

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

**Organisation:** Goulburn Mulwaree Council

**Date Received:** 23 September 2021

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Good morning

Goulburn Mulwaree Council wishes to thank the Public Accountability Committee for the opportunity to make a submission on the inquiry into the regulation of building standards. Goulburn Mulwaree Council is located in the south east of the Southern Tablelands and is experiencing significant growth and development. Goulburn Mulwaree Council is concerned about the current legislation relating to private certification and the impacts of its application.

The following comments are offered for consideration to some of the key questions:

The following comments are provided on behalf of Goulburn Mulwaree Council in relation the Public Accountability Committee inquire into and report on:

(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

Council's exposure to this matter has been minimal and therefore Council has no specific comments.

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

Council is experiencing the following concerns:

∴ Private Certifiers are issuing Construction Certificates and Occupation Certificates on development that is inconsistent with DA approved plans;

∴ Private Certifiers allow development to continue construction when inconsistent with approved plans;

∴ Private Certifiers are allowing development to proceed without conditions prior to commencement being satisfied eg payment of contributions or damage bonds to Council;

∴ Private Certifiers are not obtaining s68, s138 and s306 approvals prior to issuing CDCs. Therefore the Private Certifier is not considering the design constraints relating to these matters in the CDC assessment. The owners attribute this issue to Council;

∴ Private Certifiers are not giving thorough consideration to the ancillary components of the development eg driveways, carparking areas resulting in complaints from future residents;

∴ Private Certifiers are not monitoring erosion and sediment controls and waste disposal on construction sites. The overall cost of this is borne by Council and the environment;

∴ No mechanism in place for Private Certifiers to be held accountable or audited are inadequate or inadequately resourced, the only time this occurs is once a compliant is made or an issued identified which is often too late for a satisfactory resolution to be made. There is an expectation on Council that they have to compromise in these circumstances and this extends into the Courts;

∴ By default Council are left to oversee the process and hold Certifiers to account. This doesn't allow for positive working relationships between Councils and Private Certifiers.

∴ The community is footing the bill in more ways than one when Council is left to monitor or resolve the above matters. Council can issued penalty notices however are often Court elected

to defend the issuing of the PINs. The overall cost out ways the income received from the penalty notice;

∴ The CDC provisions have been expanded to include higher residential development and the assessment of such development is beyond the scope of many Private Certifiers and leads to poor development outcomes in regards to density, design, solar access, private open space and cut and fill;

∴ It is unclear what the process is for CDCs having to comply with the provisions of SEPPs including the Sydney Water Drinking;

∴ Council questions the adequacy of being able to rely on engineering reports given that many reports Council receives are prepared after works have been completed and rely on evidence presented by parties responsible for works not having consent.

Community complaints are investigated by Council and all of these concerns are significantly draining on Council's resources which are stretched by the volume of development in the LGA.

#### Example 1

Development Application approved and Private Certifier issues Construction Certificate. The Construction Certificate issued was inconsistent with the approved DA plans regardless the development commences. Development is constructed outside the approved footprint and had a significant impact on a heritage item. Once this is identified by Council it is too late for a satisfactory resolution to be made and Council is left to liaise with the developer and Certifier to lodge an application to modify the consent. This was a significant development in the community and the community were horrified that this could be allowed to happen.

#### Example 2

A CDC is issued by a Private Certifier for the construction of 8 terrace houses without obtaining s68, s138 and s306 approvals prior. To satisfy Council's stormwater requirements the development is required to significantly fill a section of the land resulting in the development not complying with the relevant CDC provisions in this regard.

#### Example 3

Council issued a Notice of Determination for the construction of a shed at the rear of a residential lot backing on to a Council undeveloped road Reserve containing a Critical Endangered Ecological Community (CEEC). The Reserve is currently proposed for community infrastructure by the way of a shared pathway relating to a Planning Agreement. No vehicle access was proposed by the development from the Reserve and the rear elevation of the shed contained only windows. Conditions were imposed preventing vehicular access onto the reserve. A Private Certifier issued the Construction Certificate. Development proceeded to construct shed with three roller doors included onto the Council undeveloped road Reserve. The CEEC was impacted during construction and building materials disposed of in the Reserve. The Private Certifier proceeded to issue the Occupation Certificate for the development although the construction was inconsistent with the approved plans and conditions on the Notice of Determination.

(b) any other related matter.

Council has no additional comments.