

## BUILDING AND SUBDIVISION CERTIFICATION

### Key issues

The system of certification of building and subdivision work by accredited certifiers, also known as private certifiers, was introduced in NSW in 1998. The system provides greater choice for persons seeking sign-off for building, subdivision and minor works. The previous system, where councils had sole control of certification, was seen as slow and inflexible and hindering reasonable competition. The private certification system has been widely embraced by most other Australian States and territories.

Accredited certifiers commonly issue:

- Complying development certificates, which can be issued for minor works such as extensions, garages and industrial fitouts which meet pre-set standards;
- Construction certificates, which must be issued before work commences and certifies that plans comply with building codes and are not inconsistent with a development consent;
- Occupation certificates, which confirm a building is capable of being occupied;
- Subdivision certificates, which allow landowners to register land subdivisions.

Accredited certifiers or councils can be appointed as the principal certifying authority for a development, responsible for inspections of building and subdivision work and issuing an occupation certificate at the end of that work.

To support the integrity of the private certification system, the NSW Government earlier this year established the Building Professionals Board (BPB) to oversee the accreditation, audit and investigation of complaints against all accredited certifiers. However, there has been continued public debate about aspects of the system, including potential conflicts of interest which arise as a result of the relationship between certifiers and applicants.

Also, it is sometimes unclear in the current system whether a council or the appointed private certifier is responsible for enforcing the conditions of a development consent when building works have been carried out. At times councils, rather than using their extensive enforcement powers, simply refer complaining neighbours to the certifier and a “blame game” would develop. Consequently, the NSW Government is considering further reforms to support public confidence in the system.

### Key proposals for consideration:

- For small developments, the number of construction or complying development certificates issued to any one client by an accredited certifier would be limited in any one calendar year – exemptions may apply in rural areas;
- Only landowners, not developers or builders, are allowed to appoint a certifier to issue a construction or complying development certificate;
- The BPB, not the landowner would allocate certifiers for large or complex projects;
- The BPB would develop a model set of contractual arrangements to clearly specify the responsibilities of the certifier and builder/developer;

- Councils' responsibility to enforce development consents would be mandated and their powers of enforcement for unauthorised works would increase;
- Adoption of a new target for the BPB to undertake 100 audits per annum within the first two years of changes and to increase this number over time;
- Expanding powers of the BPB to fine or suspend an accredited certifier.

Advantages:

- Improved public confidence in the certification system.
- Number of complaints against certifiers to decrease.