

---

**From:** Kristian Downing <[REDACTED]>  
**Sent:** Monday, 15 October 2018 4:54 PM  
**To:** DPTI:Planning Engagement  
**Subject:** Submission to Accredited Professionals Scheme consultation  
**Attachments:** Press articles re NSW Certifiers.pdf

Dear Sir/Madam

Please find below my submission to the Accredited Professionals Scheme consultation

**For the standard questions:**

1. Should industry bodies be allowed to deal with complaints against Accredited Professionals on behalf of the Chief Executive of DPTI?

*No. Independent and impartial checks and balances are important.*

2. Should Accredited Professionals be penalised for failing to participate in audits in accordance with the Scheme?

*Yes, of course. Accountability is important.*

3. Should certificates of currency be submitted as proof of insurance, or is annual self-certification sufficient for this purpose?

*Yes, certificates of currency should be submitted as proof of insurance. Again, there needs to be independent accountability.*

4. How important is design as a non-mandatory Continuing Professional Development topic compared with other non-mandatory topics?

*Very important. It should be mandatory.*

**In addition:**

I strongly disagree with any expansion of planning powers by private certifiers. They should not be involved with any performance assessed developments. The "What have we heard report" gave no justification of the new category of Performance Assessed going to private certifiers.

There needs to be protection against conflict of interests when developers can shop around for private certifiers who are willing to bend the rules and give quick and easy approvals. "He who pays the piper plays the tune" is human nature, and there are not enough checks and balances in the new planning system to prevent corruption. For example, it has been reported to me that there are many building certifiers who frequently say that there is no variation to original plans when indeed there are.

The experiment with private certifiers is failing in NSW - so why are we repeating it here? (see attached)

Council staff are independent - there is no 'fear or favour' and their salaries do not depend on commercial relationships.

Kristian Downing

[REDACTED]  
[REDACTED]

---

**THE AUSTRALIAN**

---

---

# Certifiers' overhaul draws industry ire

---

EXCLUSIVE

By SAM BUCKINGHAM-JONES, JOURNALIST

12:00AM SEPTEMBER 18, 2018 • 4 COMMENTS

The NSW government's plan to overhaul the way developments and buildings are approved has drawn the ire of the surveying industry but local councils have welcomed the move as they deal with "hundreds" of complaints a year against private certifiers.

According to the councils, the biggest issue is that the industry's regulator, NSW Fair Trading's Building Professionals Board, lacks the "teeth" to punish shoddy operators and enforce the law.

Several councils put in individual submissions to the state government alleging there had been "poor performance" by private certifiers, who, among other things, inspect new buildings to see if they are up to standard.

"Local government's key issues with the building regulation and certification system in NSW have been well documented," said a submission from Local Government NSW, the body representing councils. "LGNSW has consistently highlighted concerns with the diminished regulatory clout of the BPB as the regulator of building certifiers."

The body supported "new and/or higher penalties" for private certifiers who break the law.

After an independent review of the way building certifiers are managed found the government was "not achieving its policy objectives", it proposed laws to improve independence between developers and certifiers and increase punishments for dodgy operators.

The proposed legislation, the Building and Development Certifiers Bill, would expand the definition of “conflict of interest” and boost the government’s power to refuse a licence if the “close associate” of an applicant were “not a fit and proper person”.

The City of Ryde, in Sydney’s northwest, wrote there had been “several examples of poor performance” by private certifiers, while Hornsby Shire Council, in Sydney’s north, wrote that most councils were “receiving hundreds of complaints every year” about certifiers.

However, the Australian Institute of Building Surveyors, the industry’s peak body, has criticised the conflict-of-interest provisions in the proposed legislation and labelled the penalties for improper conduct “excessive”.

The Property Council of Australia said there needed to be “greater clarity” in the section about conflicts of interest and questioned why the laws targeted private certifiers.

“The Property Council suggests that there should be a level playing field between private certifiers and their local government counterparts,” the council’s submission said.

“It is in the public interest that private certifiers be afforded the same protection from civil litigation as council-employed certifiers.”

**SAM BUCKINGHAM-JONES, JOURNALIST**

Sam Buckingham-Jones is a Sydney-based journalist with The Australian. He has completed studies in Communications and International Relations at the University of Technology, Sydney, and has written for numerou... [Read more](#)



---

**THE AUSTRALIAN**

---

---

# Crackdown on 'cowboy' certifiers

---

EXCLUSIVE .

By SAM BUCKINGHAM-JONES, JOURNALIST

12:00AM SEPTEMBER 12, 2018 • 15 COMMENTS

The NSW government is under pressure to crack down on “cowboy” building certifiers who are prematurely giving off-the-plan apartments the green light and forcing buyers to complete contracts on incomplete buildings.

Better Regulation Minister Matt Kean yesterday expressed concern about the certification regime that allows a developer to employ a private certifier to approve projects, as it was revealed a private certifier who approved an apartment block in Castle Hill, northwest of Sydney, had previously been the subject of two fines, a reprimand and a caution from NSW Fair Trading.

The Atmosphere property development was billed as an “above expectations” block, with 378 apartments offering “sky high luxury” on 41 levels across two towers in the heart of the booming Hills Shire area.

Instead, last Saturday, when Kevin Wong and his wife Vanessa visited the apartment they bought off-the-plan in April 2015, they found blocked exits, construction crews everywhere and half-finished paint jobs in their \$795,000 unit.

They were told the development had recently been given an “interim occupation certificate” that deemed the building “suitable for occupation in accordance with its classification under the Building Code of Australia”. They said they had been told that, from Monday this week, they had to start paying \$2500 a month in interest from their loan.

“It’s unliveable,” Mr Wong, 53, said. “It’s shocking. There’s no gas, there’s no hot water. We want to pay, but you can’t be collecting money when it’s not

ready. We can't bring children here if it's not safe. There are chipped tiles, scratched walls. It's unliveable."

Several other owners, inspecting their apartments for the first time, made similar comments. A real estate agent who asked not to be named said he was about to show owners through. "They're not going to be happy," he said.

The building was certified on August 27. The certifier did not respond to *The Australian's* questions yesterday afternoon.

Publicly available documents from the industry regulator, the Building Professionals Board, which is managed by NSW Fair Trading, showed the certifier had been the subject of \$2000 fines for each of two properties inspected in February 2010 and June 2015. He was reprimanded in October 2005 and cautioned in July 2005.

As an A1-accredited certifier, he can issue occupation certificates for all classes and sizes of buildings.

Speaking to Ray Hadley on Sydney's 2GB Radio yesterday, Mr Kean said: "I've been concerned about this for a long time."

He said while there are many good operators in the industry, "there are some cowboys giving everyone a bad name".

"These laws will crack down on the cowboys and make sure there's more transparency and independence in the entire system," he said. "We're looking to introduce tough new enforcement for Fair Trading to be able to crack down on the dodgy guys, and stronger laws against conflicts of interest."

Public submissions into the government's bid to "strengthen" the certification system in NSW, known as the Building and Development Certifiers Bill 2018, closed on September 4 and are being reviewed by the department.

Meanwhile, the Hills Shire Council's general manager, Michael Edgar, yesterday said images he had seen from the Atmosphere development were "outrageous".

"We have a system that does raise some serious questions about the relationship between a builder and a certifier," he said.

The council has issued an emergency order for fire exits to be cleared and has threatened to close the site if they are not. "We'll be visiting daily now," Mr Edgar said.

The developer did not respond to a request for comment.

#### **SAM BUCKINGHAM-JONES, JOURNALIST**

Sam Buckingham-Jones is a Sydney-based journalist with The Australian. He has completed studies in Communications and International Relations at the University of Technology, Sydney, and has written for numerou... [Read more](#)

