

Complaints about private certifiers rise ahead of proposed changes to system

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As more projects are built, questions about how certifiers work are raised. Photo: James Alcock

Certifiers are rushing to approve developments ahead of swingeing new rules that could smash the cosy relationships between developers and the people who approve their buildings, say Sydney residents.

And locals are now bombarding councils with complaints about private certifiers approving allegedly illicit developments before public comments close on the NSW government's proposals to reform the system.

In Hunters Hill, deputy mayor Ross Williams says a large number of residents are railing against new buildings in Gladesville that are having a huge impact on their light and privacy, and compromising a nearby 1860s sandstone heritage cottage.

They've been fast-tracked under the complying development process, where applications can be determined by a council or private certifier without the need for a full development application.

"They are calling on the government to undo this disastrous planning approvals process," he says. "They feel powerless to protect their local amenity and

neighbourhood values, and say the current system of private certification and approvals doesn't respect, or support, their interest as home owners and families.”

Meanwhile in Manly, neighbours of a new home built with a large platform out the front say a certifier issued an occupation certificate despite a number of conditions being ignored. There, the Northern Beaches Council has commenced enforcement action by issuing a notice of intention to give an order to comply with the development consent.

“But will anything really happen now?” asks one of the neighbours affected, University of Sydney School of Medicine lecturer Associate Professor Raf Ghabrial. “Certifiers just don't adhere to the rules that councils lay down.

“The big wooden platform has already been built and is looking straight into my kitchen and dining room. The builder even told me he was surprised it had been allowed, but he'd been told the certifier told them they could build it. It's such a weird system that seems to allow people to flout the rules constantly.”



The view from Raf Ghabrial's kitchen and dining room window of the development next door.

Anger is growing as the cut-off date of October 30 for feedback on suggested reforms to the current building and certification system nears. The government has

suggested a different process for appointing certifiers, instead of allowing developers to handpick their own certifier to approve their works.

Its options paper explores the possibility of introducing new methods of appointment for private certifiers, by rotating who is available to be used for a specific development, to minimise the opportunities for these certifiers to face pressures that could compromise their ability to act in the public interest.

It describes thresholds that, if met, would require one of three options: certifiers selected at random, a list with the appointment of the “next off the rank” certifier, or a limit on the amount of time a certifier could work for the same client.

In Gladesville, Matt Fehon is one of a number of protesters against a building that the Hunters Hill council agrees has gone beyond the original development approval.

“But then the certifier said everything is in accordance with the complying development certificate and he doesn’t have to worry about privacy and overshadowing, so there’s little anyone can do,” says Mr Fehon.

“This system is terrible. The whole process is wrong and the council says they can’t do anything about it.”

Cr Williams backs him up. “This typifies the whole development process,” he says. “It overrides people’s traditional rights and denies them those rights under a formulaic process that just doesn’t match councils’ development control plans.”

And in Manly, complainants have welcomed the Northern Beaches Council’s first step in action against the development they say doesn’t comply. Another neighbour Jason Halliwell says: “The original development application said the platform couldn’t be built, but it was built anyway.

“We made so much noise, the council was forced to do something. But we still don’t know if anything will be done. It’s a system where a certifier is paid by a developer and can potentially override the DA and the council ... It’s a huge problem for everyone.”

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