



**BEECROFT  
CHELTENHAM**  
CIVIC TRUST INC  
the voice of our community

PO Box 31, Beecroft 2119

[www.bcct2119.com.au](http://www.bcct2119.com.au)

ABN 41449599554

Mr. Anthony Roberts MP  
Minister for Planning  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Minister,

I raise for your consideration our experience as a Civic Trust in the current operation of the accredited private certifier system. Because of the inherent difficulties identified by our experience we submit that there are flaws within the governing legislation that need to be changed. The more significant of the difficulties that we have identified are set out below.

Inherent conflict of interest and managing approvals

At present an accredited private certifier is, according to the Fair Trading website, to be appointed by the “person having the benefit of the development consent.” No matter what the education or requirements for certification, the person who appoints the private certifier must have influence on the person appointed. This is an inherent flaw. The experience of this Civic Trust is that this influence evidences itself in a myriad of small ways – and all to the advantage of the person appointing and paying the certifier and always contrary to the neighbour seeking to object. This can be seen in minimising the objections, speed of responsiveness or even acknowledging the concerns raised.

A related issue is that situations can arise where an accredited private certifier acts without authority, for example, approving a development application for a property within a heritage precinct when such a development application requires a full development application.

To avoid this inherent conflict it would be preferable for local government to maintain a register of accredited private certifiers prepared to operate in that local government area and then allocating the next accredited private certifier off the register once the developer seeks one. The arrangement and payment of fees can then be between the developer and the accredited provider but the act of selection is done automatically and under the control of the Council.

To accommodate the variety of accredited private certifiers, the register could be established to permit council (at its discretion) to maintain separate registers for specific developments such as residential, low and high units.

As with planning panels each panel of accredited private certifiers should be reviewed at least once in every term of council.

Having a register would also minimize the risk of the accredited private certifier acting outside of his authority by council checking the process to be followed and reinforce this process with the accredited private certifier prior to work being commenced by the accredited private certifier.

In addition to the inherent conflict of interest there is also a possibility of an actual conflict of interest. To deal with the possibility of an actual conflict of interest accredited private certifiers should supply council with a written declaration that there is no pecuniary conflict of interest with the developer.

#### Time frame for Council to be notified of approval

At present there is no time frame in which an accredited private certifier is to notify council that an approval has been given to a development application. If there is a delay in giving this notification then the timeframe within which Council has to overturn an erroneous decision will have lapsed.

It is suggested that a timeframe of 2 days in which to notify council is more than adequate.

#### Council access to records of accredited private certifier

Once appointed there should then be a right of the Council to access all records of the accredited private certifier (at the cost of the accredited private certifier to supply) concerning advice provided and compliance. At present where a neighbour lodges a complaint about non-compliance with a condition on the development approval, the Council (despite the accredited private certifier being a delegate of the council as the consent authority) being the enforcement agency has no capacity to seek all relevant information to help understand the complaint as to non-compliance. This stifles the ability to bring enforcement action.

Again, if Council approves the panel then access to records sits more comfortably with council.

The Beecroft Cheltenham Civic Trust strongly urges that you seek to amend the legislation:

1. To break the link between the flow of work to the accredited private certifier and the developer, and
2. Permit access of Council to all relevant information so as to facilitate its decision-making on enforcement action for conditions on development.

Your advice on these proposals would be appreciated.

Yours faithfully

Roderick Best PSM  
President  
31 January 2023

Cc

The Hon Dominic Perrottet MP, Member for Epping  
James Griffin Minister for Environment & Planning  
Mr P Ruddock, Mayor, Hornsby Shire Council  
Mr S Head, General Manager, Hornsby Shire Council  
Lord Mayor Donna Davis, City of Parramatta  
Ms Judith Dawes, President, Epping Civic Trust