



**Office of the Building Commissioner**

Date: 20.06.2023

Mr David Tuxford  
Georges River Council  
Corner MacMahon and Dora Streets  
Hurstville NSW 2220

E: [dtuxford@georgesriver.nsw.gov.au](mailto:dtuxford@georgesriver.nsw.gov.au)  
[mail@georgesriver.nsw.gov.au](mailto:mail@georgesriver.nsw.gov.au)

**RE:** Partners in Certification and related improvement

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Dear Mr Tuxford,

Thank you for your letter of 18 May in relation to 'Partners in Certification and related improvements'.

As you may know the Government has committed to the establishment of a Building Commission by the end of 2023. The work of the commission will expand our current focus from Class 2 residential flat buildings to also relate to Class 3 and 9. Additionally this will address the emergence of issues with Class 1 construction.

The below outlines a response to the matters raised in your letter.

<b>Council matter:</b>	<b>Response:</b>
1(a) establishment of a dedicated team within the Department of Fair Trading to assist the community with enquiries regarding Class 1 developments	Referred to Executive Director Matt Press from NSW Fair Trading for consideration
1(b) The Planning Portal is ungraded to ensure greater public visibility in areas such as: i. access to the progressive lodgement of documents, certificates and plans. ii. lodgement of complaints, which are to be actioned by the PCA. iii. a Complaint Inspection report is lodged in the portal by the PCA within two days of undertaking an inspection/investigation.	Referred to Executive Director Gino Cavallaro from the Department of Planning and Environment (DPE) (ePlanning team) for consideration

<p>1(b) The Planning Portal is ungraded to ensure greater public visibility in areas such as:</p> <ul style="list-style-type: none"> <li>i. access to the progressive lodgement of documents, certificates and plans.</li> <li>ii. lodgement of complaints, which are to be actioned by the PCA.</li> <li>iii. a Complaint Inspection report is lodged in the portal by the PCA within two days of undertaking an inspection/investigation.</li> </ul>	<p>Referred to Executive Director Gino Cavallaro from the Department of Planning and Environment (DPE) (ePlanning team) for consideration</p>
<p>1(c) New penalty categories are introduced for a PCA - such as breaching conditions of consent.</p>	<p>Referred to Executive Director Matt Press and Director Angus Abadee from NSW Fair Trading for consideration</p>
<p>1 (d) Amendment to the legislation to authorise Councils to fine/ penalise a PCA for non-compliance with the legislation</p>	<p>It is not considered appropriate to alter the current arrangements which allow certifiers to be reported to and managed holistically and across LGA boundaries by the NSW Fair trading.</p>
<p>2 (a) Development of a new framework for managing sites controlled by private certifiers - this involves the development of a Policy and Procedures that outlines Council and the Department of Fair Trading's role in relation to development sites where a private certifier has been appointed as the PCA.</p>	<p>It is requested that council outline the suggested management framework before further consideration is given.</p>
<p>2 (b) Publish redacted CDC plans in the Council's Website Application Tracker.</p>	<p>This action of council is noted</p>
<p>2 (c) Explore the creation of a service to assist residents resolve civil disputes - e.g., fences, storm water etc.</p>	<p>This action of council is noted</p>
<p>That Georges River Council and the Department of Fair Trading enter into a joint/pilot project to develop a policy and set of procedures providing information and details on the role of the certifier, Council and the Department in regard to development approvals and the management of building sites for Class 1 Buildings.</p>	<p>Further consideration will be given for a pilot project following provision of the above clarification under 2(a)</p>
<p>That the Building Commission and Department of Fair Trading explore a co-regulatory approach between councils and the Department to regulate certifiers for breaches of legislation.</p>	<p>Further dialogue is required in relation to this suggestion. We will coordinate a meeting with representatives of Georges River Council, and LGNSW.</p>
<p>That the Building Commission and Department of Fair Trading accept Council's submission requesting improvements to the functions of the Planning Portal to address matters such as greater access of information on CDCs for the public and action complaints</p>	<p>Further dialogue is required in regard to this suggestion. We will coordinate a meeting with the DPE (ePlanning team).</p>

Per the above we will set up the next meeting inviting representatives of LGNSW, DPE, Office of the Building Commissioner (OBC), NSW Fair Trading and the Building Ministers Office. In preparation for these meetings can you undertake to provide the OBC with agenda items and any talking points so we can circulate with the invitations.

Should you require further information please contact Tanya O'Brien.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'T O'Brien', written in black ink.

Tanya O'Brien  
Director Office of Project Remediate