

from the desk of Jess



WORKING WITH CERTIFIERS: MY TOP 5 TIPS



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I recently presented to a large audience of builders on the topic of '**Working with your Certifier – the Do's and Don'ts.**'

The segment attracted a lot of discussion and questions from the audience. From this, it dawned on me that there is a lack of BASIC understanding of the role of certifiers and what is required to achieve an occupation certificate.

Given the importance of the certifier in the building process, here are my **5 most important tips** that builders *must* remember when **liaising with the certifier during construction!**

These include...



1 UNDER THE INFLUENCE

The oldest rule in the book, yet so much confusion! **Builders can't appoint a PCA** or influence the choice of certifier. It is a **conflict of interest** and a **breach of legislation**.

Certifiers are public officials who must always remain independent. They must avoid situations where their private interests may affect their duty to act in the public interest when undertaking certification work.





2 THAT'S A NO FROM ME...

Is the PCA expected to supervise the work?

I hear this question all the time.

The answer is: no, no, and ...no.

A certifier is ONLY required to attend the site for critical stage inspections. The Builder has overall supervision and management of the work. Builders cannot use PCAs as scapegoats to avoid liability for defects. The recent decision of *University of Sydney v Multiplex Constructions* confirms this.





3 LOCKED AND LOADED

Once a **construction certificate is issued, your design is locked and loaded**. If that design is based on DTS provisions, then it is DTS! Certifiers can't fix a buildability or site issue with a performance solution after the work has been constructed. Introduce your performance solution prior to undertaking the physical work. And remember: your certifier cannot give you the performance solution and then certify their own solution. That would be a complete conflict of interest.





4 CANCELLED.

So the project has come to a sudden halt halfway through construction because the certifier's registration has been cancelled?

Two options here. The owner reaches agreement with the old and a new certifier and lodges a **Replace Principal Certifier Notification** form with Council *or* if agreement can't be reached, the new certifier lodges a **Notice to Appoint a Replacement Principal Certifier** with Fair Trading.

Be quick, processing might take a while.





5 IAIN'T MISSING YOU AT ALL...

If a critical stage inspection is missed, then a certifier can only issue an occupation certificate if the inspection was '**unavoidably missed**.'

'Unavoidably missed' is a high bar to satisfy. For example, where the certifier has a serious illness or there is a public safety risk requiring work to be covered up. Not being able to agree on an inspection date is not 'unavoidable'.



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Hope this gives a clear
outline of the basics of
working with your certifier.

Need to know more?

Reach out to our team at
Construction Legal.



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