



Appointment of Port Stephens Council as Building Certifying Authority

Development Assessment & Compliance
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Introduction

Port Stephens Council is a certifying authority who employs accredited certifier (the Certifier) who are public officers authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council.

OFFICE USE ONLY
Application No:
Date of Receipt:

The Client seeks to engage the Council to perform certification work on the terms set out in this Agreement.*
* Pursuant to 73A Building Professionals Act 2005 and 109E Environmental Planning & Assessment Act.

This is a Contract of Agreement between Port Stephens Council (the Council) and the Client. (as nominated below)

Client Particulars

The client is:

- Property owner
- Personal duly authorized by the owner

(Please mark appropriate box) **NOTE:** The person having the benefit of the Consent so as to be able to appoint the PCA may be the owner or an applicant authorised by the owner but may NOT be the builder unless the builder is the owner.

Clients name: _____

Clients address: _____

Clients email: _____ and/or phone contact details: _____

Certification work to be performed

(Tick one or more boxes as appropriate)

- Determination of application for a **Construction Certificate**
- Determination of application for an **Occupation Certificate**
- Determination of application for a **Comply Development Certificate**
- Appointment to undertake the functions of **Principal Certifying Authority** for the development upon development consent being granted.

Certifier

Port Stephens Council is the Certifying Authority and all development certificate functions and certification work will be carried out by a Council Building Surveyor who is currently accredited by the Building Professionals Board (<http://www.bpb.nsw.gov.au/page/>).

Description of development

Address of development:

Lot number	Deposited Plan	Street no. / name	Locality

Development Consent, or Application, or Certificate Number & date of issue.

Number: _____ Date: _____

In respect of any unforeseen contingency work provided for under this Agreement, the Council is to send an invoice to the Client within 21 days after the completion of any such work.

Terms & conditions

- Fees payable are as specified in the attached fee quote in accordance with Council's Fees & Charges Schedule and are to be paid at the lodgement of the Application and completion of this form.
- I agree to provide all documents that the Council may reasonably request for it to perform the function of the PCA and/or Building Certifier.
- I agree to provide the Council with reasonable access to the development site.
- I agree to notify Council of the appointment of the principle contractor.
- I agree to notify the principle contractor of any critical stage inspections to be carried out in respect of the building work.
- I acknowledge that I have received and understood the description of services. document.

NOTE: The person having the benefit of the Consent so as to be able to appoint the PCA may be the owner or an applicant authorised by the owner but may NOT be the builder unless the builder is the owner.

NOTE: If the owner is a company, a director and an authorised person (eg. Secretary) must sign. Signatures must be followed by the person's title. If Company is a sole trader, the person's title is to indicate; 'Sole Director'.

Signatures

This agreement is made on the _____ day of _____ 20 _____

Signed by Owner/Client _____

Signed on behalf of the Port Stephens Council _____

By signing this contract you accept the terms and conditions as available and applicable.

Further information is available on Councils web site.

Application for a Complying Development Certificate (CDC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate timely determination of the application, including:

1. Provide a blank copy of CDC application form to the Client.
2. Conduct an inspection (by a Council appointed accredited certifier, Building Surveyor) to inspect, the development site, and prepare a record of the inspection.
3. If clause 130(2A) or 130(2E) of the EP&A Regulation applies to the application (i.e. where there is an alternative solution relating to fire safety requirements) obtain a compliance certificate or written report from a fire safety engineer or another accredited certifier that satisfies the requirements of clause of the 130 EP&A Regulation.
4. Assess whether the proposed development satisfies the development standards set out in the relevant environmental planning instrument, development control plan and the EP&A Regulation.
5. Determine the application and prepare a notice of the determination.
6. If the application is granted:
 - a. prepare a complying development certificate
 - b. endorse all relevant plans, specifications and other documents
 - c. prepare any associated fire safety schedule or fire link conversion schedule
 - d. ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. ascertain if any contributions plan requires the CDC to be subject to a condition requiring a monetary payment.
 - f. issue CDC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. forward copies of documents prepared to statutory authorities, including the NSW Rural Fire Service, as required by the EP&A Regulation.

Application for a Construction Certificate (CC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of CC application form to the Client.
2. If the development is on a site which affects an existing building, inspect (by a Council appointed accredited certifier, Building Surveyor) the building and prepare a record of the inspection.
3. If clause 144 of the EP& A Regulation applies to the development (i.e. alternative solutions for certain fire safety measures), apply to the Fire Commissioner for an initial fire safety report.
4. If the development is a residential flat building, obtain a design verification from a qualified designer under clause 50(1A) of the EP& A Regulation
5. If clause 144A of the EP& A Regulation applies to the application (i.e. where there is an alternative solution relating to fire safety requirements) obtain a compliance certificate or written report from a fire safety engineer.
6. Assess whether the application satisfies the requirements of the EP&A Regulation, including compliance with the BCA, the development consent and any pre-conditions to the issue of a CC.
7. Determine the application and prepare a notice of the determination.
8. If the certificate is granted:
 - a. prepare a construction certificate
 - b. endorse all relevant plans, specifications and other documents
 - c. prepare any associated fire safety schedule or fire link conversion schedule
 - d. ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. ascertain if any security or monetary payment or levy under sections 94 or 94A of the EP&A Act are required before the CC is issued.
 - f. issue CC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. Retain on the Council record all documents as required by the EP&A Regulation.

Application for an Occupation Certificate (OC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of an OC application form to the Client.
2. Conduct an inspection (by a Council appointed accredited certifier, Building Surveyor) of the development and prepare a record of the inspection.
3. If clause 144 of the EP& A Regulation applies to the development (i.e. alternative solutions for certain fire safety measures), apply to the Fire Commissioner for a final fire safety report.
4. Obtain a final fire safety certificate or interim fire safety certificate as required by the EP& A Regulation.
5. If the development is a residential flat building to which clause 154A of the EP&A Regulation applies, obtain a further design verification from a qualified designer in relation to the completed works.
6. Obtain a verification from the principal contractor or building owner/agent certifying that all BASIX requirements required to be complied with before an OC may be issued have been satisfied, including obtaining any necessary BASIX completion receipt.
7. If clause 130(2A) or 144A(1) of the EP& A Regulation applied to the development (i.e. where there is an alternative solution relating to fire safety requirements), obtain a further compliance certificate or written report from a fire safety engineer with respect to the completed works as required by clause 153A of the EP& A Regulation.
8. Assess whether the application satisfies the requirements of the EP&A Regulation, including whether any pre-conditions of the development consent or CDC which are required to be met before an OC may be issued, have been met and (where building work has been carried out) whether the work is not inconsistent with the development consent).
9. Determine the application and prepare a notice of the determination.
10. If the certificate is granted, prepare an OC and issue it to the Client.
11. Retain on the Council record all documents as required by the EP&A Regulation.

Application for a Compliance Certificate

Description of services

The Certifier will perform, on behalf of the Council, all work that is necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Conduct an inspection (by a Council appointed accredited certifier, Building Surveyor) of any building work or subdivision work, if necessary.
2. Where appropriate, ascertain if a development consent or complying development certificate is in force with respect to building work or subdivision work which is the subject of the application.
3. If the Certificate is granted, prepare a compliance certificate and issue it to the Client

Undertake the functions of Principal Certifying Authority (PCA)

Description of services

The Certifier will, on behalf of the Council, perform all work that is necessary to comply with relevant statutory requirements, including:

1. Not later than two days before any building work or subdivision work commences, the Council will the Owner/Client of all inspections that are required to be carried out of the building work or subdivision work.
2. Ascertain, before any building work or subdivision work commences, that a construction certificate or complying development certificate has been issued for the work.
3. Ascertain, before any residential building work commences, that either:
 - a. the principal contractor is the holder of a licence under the *Home Building Act 1989* and is covered by appropriate insurance, or
 - b. where the work is to be carried out by an owner-builder, that an owner-builder permit has been issued under the *Home Building Act 1989*
4. The Council appointed accredited certifier, Building Surveyor will either carry out all critical stage inspections of the building work or subdivision work prescribed by the EP& A Regulation or required by the Council appointed accredited certifier, Building Surveyor.
5. The Council appointed accredited certifier, Building Surveyor will make a record as required by the EP&A Regulation of all inspections that he or she carries out.

6. The Council appointed accredited certifier, Building Surveyor will determine whether any inspection (other than the last critical stage inspection) has been not carried out due to circumstances that were unavoidable, and whether the work that would have been inspected was satisfactory, make a record of any such missed inspection as required by the EP&A Regulation and provide a copy to the Client. The Council appointed accredited certifier, Building Surveyor will also notify the principal contractor or owner builder of the missed inspection as required by the EP&A Regulation.
7. Determine applications for occupation certificates or subdivision certificate (subject to separate terms under this Agreement)

Compliance functions

The Council appointed accredited certifier, Building Surveyor will take such steps as he or she considers appropriate to address any of the following matters relating to the development:

- a. non-compliance with the development consent
- b. the carrying out of work without development consent
- c. an unauthorised use of a building
- d. a breach of a law relating to the carrying out of work or the use of the land
- e. a threat to the safety of a person or a person's property
- f. any other matter he or she considers to be in the public interest to address.

Without limiting the actions that the Certifier may take, the Council appointed accredited certifier, Building Surveyor may:

- g. attend the site or nearby properties to inspect any issue of concern relating to the development
- h. confer with any person in relation to any issues of concern
- i. cause correspondence to be issued to any person
- j. refer any matter of concern to such persons or authorities as he or she considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency
- k. issue notices or orders under section 121H of the EP&A Act