

INFORMATION SHEET

About this information sheet

This information sheet details the role of a Principal Certifier and Council in regard to obtaining a Construction Certificate or a Subdivision Works Certificate.

Council Contact Details

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What happens after Development Consent is granted?

Obtaining a Construction Certificate or a Subdivision Works Certificate

Once development consent is granted, the applicant may be required to apply for and receive a Construction Certificate/ Subdivision Works Certificate before works or the use can commence. The consent will state whether a Construction Certificate or a Subdivision Works Certificate is required. Generally, demolition applications and development applications for change of use of a shop or office where there are no works proposed as part of the application do not require Construction Certificates. The above mentioned Certificates can be obtained either from Council or an Registered Certifier (private certifier). The requirements for a Construction Certificate/Subdivision Works Certificate application to Council are set out in the Construction Certificate Application Form. A listing of Registered Certifiers can be obtained from NSW Fair Trading www.fairtrading.nsw.gov.au

Appointing a Principal Certifier (PC) and notifying Council

Prior to the commencement of work applicants must appoint a Principal Certifier (PC). This can be Council or a private certifier. Council must be advised in writing of who has been appointed as the PC, if it is not Council. All developments, regardless of who is appointed the PC, must give 2 days notice in writing to the neighbouring areas of their intention to start work. This includes demolition applications where there is no Construction Certificate or PC appointed.

What is a PC?

A PC is the Principal Certifier and one must be appointed prior to the commencement of any building work in accordance with a complying development certificate or a development consent and construction certificate.

The PC can either be a Council certifier or a private registered certifier. The owner decides who the PC is.

What does the PC do?

The principal roles of the PC are to:

1. Ensure compliance with the development consent and the construction certificate or the complying development certificate
2. Ensure compliance with all conditions
3. Ensure compliance with the Building Code of Australia
4. Notify the neighbouring areas of the intent to start work and be the contact for community concerns regarding the works
5. Carry out all the required inspections associated with the building works or subdivision works
6. Issue the occupation certificate when all works are completed.

What is the Council's role?

Council's role in building and construction work varies depending on whether or not Council has been appointed the Principal Certifier (PC) for a development.

If Council is appointed the PC, Council becomes the building inspector and must carry out all the roles of the PC.

If a private certifier is appointed the PC, it is not Council's responsibility to ensure building and construction compliance - however Council still may get involved in response to complaints and in cases where private certifiers do not adequately meet their inspection and compliance obligations.

In all cases Council maintains a regulatory role.

What is the role of a private certifier when they are appointed the PC?

When a private certifier is appointed the PC they take responsibility for the development site and are required to fulfil all the roles of the PC.

They have statutory responsibilities and authority, including the matters they are required to consider under Section 6.6(2), 6.8, 6.10(2), 6.12(2) and 6.14(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the works they can approve in lieu of Council, as listed under Clause 161 of the *Environmental Planning and Assessment Regulation 2000 (Regulation)* including;

- Earthwork
- Stormwater drainage work
- Landscaping work
- Erosion and sediment control work
- Excavation work
- Mechanical work
- Structural work
- Hydraulic work
- External finishes of a building.

Private certifiers have some enforcement powers as the PC. They have the power to issue directions under Section 6.31 of the *EP&A Act* identifying a matter that has or would result in non-compliance with an aspect of the development and directing that specified action be taken within a specified time to remedy the non-compliance. Such a direction may occur where consent conditions are breached or where construction activities are failing to follow the approved plans. If the direction is not complied with, the PC must send a copy of the direction to Council for the Council to decide whether it will issue the order.

What is Council's role when a private certifier has been appointed the PC?

When a private certifier has been appointed the PC, the Council generally becomes the “keeper of the records”, but is not directly involved in the inspection of the development site.

By not being the PC it means that Council does not have ready access to construction timeframes and schedules, and various professional reports that may be produced during the construction phase, including structural engineer's certification and survey information. Such information and reports are not required to be submitted to Council until the final occupation certificate has been issued. It is important to note that this is a significant impediment to Council's ability to respond to general enquiries on a development site.

Nevertheless, Council retains its regulatory role and enforcement powers and will take action if and when required.

What should I do if I have a concerns or complaints about building works or a development site?

Discuss your concerns with the property owner and bring it to their attention. Sometimes they may be unaware that their activities are causing a nuisance or are a breach of legislation.

If this is not an option or is not resolved, any complaints in relation to building works or a development site should be referred to the PC (either the private certifier or Council, if Council is the certifier). This person will have the most association and familiarity with events occurring on the site and may be able to effectively resolve the complaint without the need for enforcement. PC contact details can usually be found on a sign at the front of a development site.

If you are still unsure who the PC is, or if you want to make a complaint regarding the building works or development site please call Customer Service on 9952 8222.

Any correspondence received by Council where a private certifier is the PC, and not Council, will be referred to the PC for consideration and investigation. The customer will be notified of this action along with the PC contact details.

When will Council act on complaints?

Council will only act on complaints received in relation to building works and development sites if:

- The work threatens life, safety or damage to property or environment
- The works may not form part of the development consent
- The PC refuses to take action and a breach is occurring
- The PC takes action on a breach by issuing a direction to rectify the breach and Council is subsequently informed that the direction has not been complied with
- Council is the PC.

If Council receives a complaint **after-hours**, it will only be acted upon if it is considered an emergency and the work threatens life, safety or damage to property or environment. If is not considered an emergency it will be referred to PC during business hours.

What should I do if I have a complaint about a private certifier?

The Council is not the regulator of private certifiers. Any complaints about the conduct and actions of a private certifier must be directed to Fair Trading NSW. More information on lodging a complaint about a private certifier can be found on the NSW Fair Trading website www.fairtrading.nsw.gov.au or by calling 13 32 20.