

CERTIFYING

building and subdivision work



NSW GOVERNMENT
Building Professionals Board



NSW GOVERNMENT
Department of Planning

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This pamphlet is for anyone intending to build or subdivide land. It provides general information about the approvals needed. It focuses on proposals requiring building work in the residential sector.

What do you need to do to build or subdivide?

1. Ask your council about the approvals needed.

If you intend to renovate, demolish, build, develop or use land, your first step is to go to the local council responsible for that land.

The council can tell you about:

- the rules for developing the particular site under the council's local environmental plan (LEP)
- the development assessment process
- any issues that might affect the development and use of the site.

Having found out more about the site and the rules for development, you will be able to work out what approval is required. If your proposal is classified as 'exempt development' under council's LEP, you may not require approval.

The normal steps and approvals for building work are outlined below.

2. Apply for development consent or a complying development certificate.

Development consent

Your council can advise you on whether you need development consent. In almost all cases your council issues the development consent. In some cases a State Government agency may issue the consent.

Accredited certifiers (private practitioners accredited to act as public officials) cannot issue development consents.

Complying development certificate

This certificate is an alternative to obtaining development consent. It is only available for routine developments that are stated in your council's complying development plan (LEP or development control plan). These might include pergolas, sheds, garages, or house additions.

The certificate certifies that a proposed development is complying development and that the development complies with the Building Code of Australia and other relevant standards.

Certifying authorities (councils and accredited certifiers) can issue complying development certificates.

The certificate must be obtained before building work commences, including site works such as demolition and excavation.

If you have a complying development certificate, you do not need a construction certificate.

3. Apply for a construction certificate

If you have development consent, you need a construction certificate **before** you can start building work or subdivision work. Construction certificates are not able to be issued after works have begun.

A construction certificate for building work certifies that building plans comply with the Building Code of Australia, are 'not inconsistent' with the development consent, and comply with certain other conditions of the development consent.

You can apply to a certifying authority (council or to an accredited certifier) for the certificate.

You do not need a construction certificate where a complying development certificate has been issued for the plans and specifications for the work. If you fail to obtain a construction certificate or complying development certificate before commencing building or subdivision work you will not be able to obtain an occupation certificate.

4. Appoint a principal certifying authority (PCA)

You need to appoint a PCA (council or an accredited certifier) when development

consent or a complying development certificate has been issued for building work or subdivision work.

The PCA will inspect the building work or subdivision work during construction and, where satisfied that it generally meets required standards, including some conditions of consent, they will issue either an occupation certificate or subdivision certificate.

You must appoint a PCA **before** work starts.

Only the person with the benefit of the development consent can appoint the PCA. (This is usually the owner or occupier of the land). The builder cannot appoint the PCA unless they are also the owner of the land on which the work is to be carried out.

Occupation certificate

This certificate is issued by the PCA and certifies that completed building work is capable of being occupied or used in accordance with its building classification under the Building Code of Australia.

An occupation certificate must be obtained before a new building is occupied or to change the classification for an existing building under the Building Code of Australia.

Subdivision certificate

This certificate is issued by the PCA and allows you to register the land subdivision with the Land and Property Information Division of the Department of Lands. (Note: council must be the PCA for subdivision work unless the council's LEP specifically allows the certification of subdivisions by an accredited certifier.)

5. Notify the council before starting work

You need to give the council at least two days notice in writing of your intention to commence work on the site (the person with the benefit of the development consent or complying development certificate must do this).

You also need to notify the council in writing, at least two days before building work commences of whom you have appointed as the PCA.

It is usual to give these two notices to council together.

6. Find out about inspections required

At least two days before the work starts, the PCA must inform you about the inspections that are required to be undertaken of the building work. You must then tell your builder about the inspections that must be undertaken (the builder will usually make arrangements with the PCA for the inspections to be carried out as they are needed).

Failure to undertake the required inspections may result in your PCA not being able to issue an occupation certificate for the completed work.

7. Liaise with the builder and PCA during construction

Your development consent or complying development certificate will have been granted to you with a list of conditions attached. These conditions will require certain things to be done before work can start, at various stages during the construction, and after the building work is completed. They are often linked to the issue of the construction certificate and occupation certificate for a development.

You can facilitate the process by making sure you are aware of the conditions on the approval. Ultimately it is your responsibility to ensure that conditions of development consent are met. Read them carefully; note which conditions must be met at the different stages, and liaise regularly with your builder and PCA to ensure that conditions are satisfied as required.

Failure to comply with the development consent could result in a fine from council, costly remedial work or, in the worst case, an order from council or the Land and Environment Court to demolish unauthorised works. Keep in contact with the builder and the PCA as work progresses.

8. Completion of works – obtain an occupation and/or subdivision certificate

Before you occupy the building or register a subdivision, you need to obtain an occupation or subdivision certificate from the PCA. If you also wish to register a strata, you need to obtain a strata certificate from an accredited certifier who is accredited to do so, or the council.

Who issues the certificates?

Only certifying authorities (council or an accredited certifier) can issue complying development, compliance, construction, occupation, subdivision or strata certificates.

An accredited certifier is a private sector professional who is specifically authorised by the Building Professionals Board to issue the certificates described above or to conduct mandatory inspections of building construction under the *Environmental Planning and Assessment Act 1979*.

Not all accredited private certifiers can issue all of the above certificates or conduct mandatory inspections. Their authority to issue these certificates depends upon their level of accreditation. You should check the level of accreditation of the certifier before you engage them. This can be done via the Board's website www.bpb.nsw.gov.au.

Councils can issue all of the certificates mentioned above.

For tips on choosing a certifying authority or principal certifying authority (PCA), see 'Choosing a certifying authority' (available at www.bpb.nsw.gov.au).

Your rights of appeal

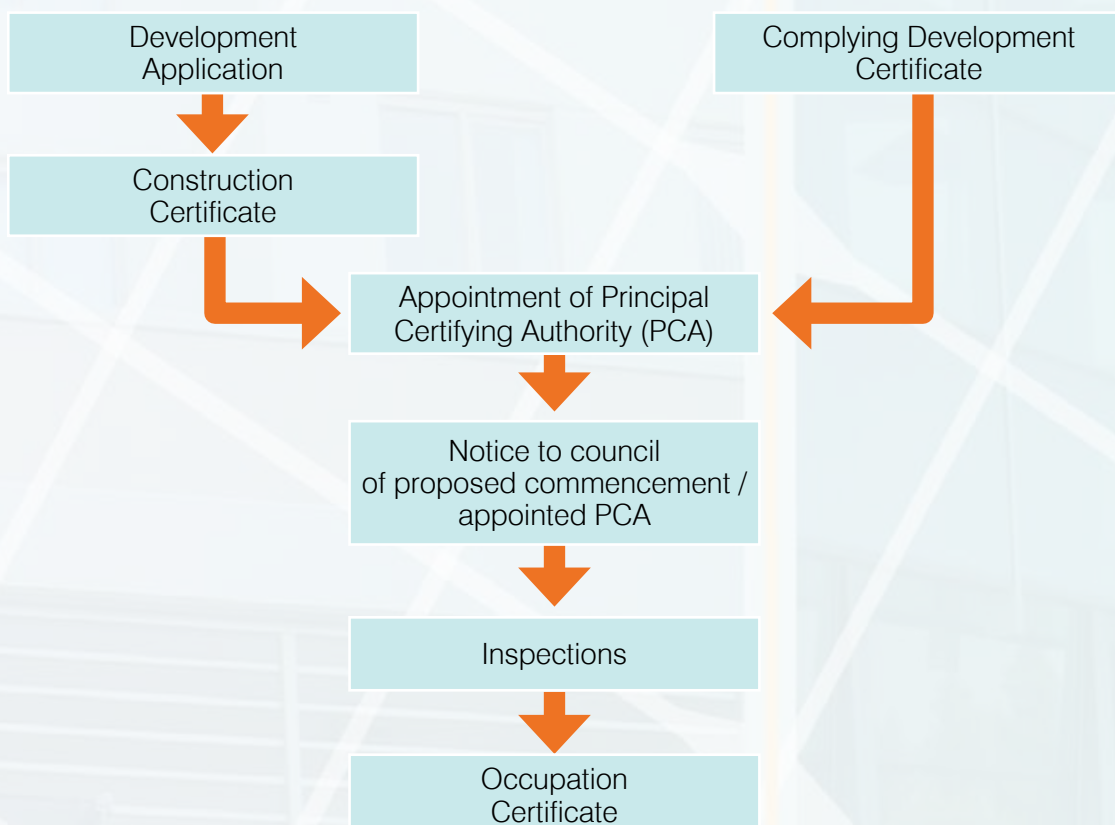
You can appeal to the Land and Environment Court if the council has not issued a construction certificate, final occupation certificate or subdivision certificate, or if no decision is made after a certain period.

You cannot appeal against the decision of an accredited certifier to refuse an application for a certificate. However, if the certifier fails to issue a certificate within a reasonable period, a complaint may be lodged with the Building Professionals Board and they may:

- conciliate the dispute,
- discipline the certifier, or
- approve a change to another certifying authority.

Summary of the building approval process

(Environmental Planning and Assessment Act 1979)



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