



## FACT SHEET—149(d) BUILDING CERTIFICATES

This fact sheet provides some general information relating to Section 149(d) Building Certificates, and answers many frequently asked questions (FAQs). This fact sheet will assist you in understanding what a 149(d) Building Certificate is, and whether you might need to obtain one if you are a property owner, potential purchaser or Agent.

### Q: What is a building certificate? How is it different from the other Council certificates?

Sections 149A-G of the *Environmental Planning and Assessment Act 1979* contain provisions for Councils to issue building certificates in relation to the whole or part of a building. Property owners, purchasers or their representatives often apply for building certificates when selling houses or other property. If it is a concern that building/s on a property may not have been granted development consent or approval, that there may be encroachment onto neighbouring land, and that building/s may be structurally unsound, it is recommended that Council be contacted to ascertain the presence of historic approvals. If no approvals are located, an application for a building certificate may be lodged with Council.

If issued by Council, a building certificate confirms that Council will not:

- Order the building/s to be demolished, altered, added to or rebuilt;
- Take proceedings for an order (or an injunction) requiring the building/s to be demolished, altered, added to or rebuilt; or
- Take proceedings in relation to any encroachment by the building onto land vested in or under the control of Council.

A building certificate will also confirm that Council will not undertake any of the above listed action for a period of seven (7) years from the date of issue of the certificate, in relation to matters existing or occurring before the date of issue of the certificate. However, a building certificate does not prevent Council from taking proceedings against a person that fails to obtain a development consent that may be required for the erection or use of the building or to comply with conditions of a development consent.

**Please note:** Retrospective development consent may be required by Council in conjunction with the lodgement of a building certificate application. Retrospective development consent may be obtained through the lodgement and approval of a Development Application, including the payment of relevant fees and developer contributions. The approval of a DA provides consent for the specific land use, for example, a 'Dwelling House'. The issue of a building certificate **does not** provide consent for the use of land for a particular purpose.

Section 149(2) and 149(5) certificates apply to the land, whereas Section 149(d) building certificates apply to the structures on the land.



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### Frequently asked questions (FAQ's) continued...

**Q: What happens if Council refuses to issue a building certificate?**

If Council refuses to issue a building certificate, the applicant will be informed of Council's decision and the reasons for it. In many cases the applicant will be informed of the work that needs to be undertaken to enable Council to issue the building certificate.

***Undertaking building works without the requisite approval is illegal and is a serious offence.*** Council may refuse to issue a building certificate in particular situations and may seek to remedy non-conformances through legal proceedings in the NSW Land and Environment Court, which may entail demolition as stated above.

**Q: Is there an application form for a building certificate?**

**Yes.** The relevant application form may be obtained by contacting Council Offices on (02) 6746 1755, or by visiting the Planning and Building section of Council's website at: [www.lpsc.nsw.gov.au](http://www.lpsc.nsw.gov.au).

**Q: How much does a building certificate cost?**

The current fee for a building certificate is \$250. Council fees are reviewed on a yearly basis. To obtain a list of Council fees, contact Council Offices on (02) 6746 1755 or visit Council's website.

**Q: Do I have to provide a survey when applying for a building certificate? Do I need to provide any other information or documents?**

**Yes,** a current survey plan from a registered Surveyor is required to be submitted as part of an application for a building certificate. **However,** if the applicant is able to provide evidence that no material change has occurred in relation to the building/s since the date of a survey plan which has been supplied to Council, a more recent survey plan is not required to be submitted.

Council may request the applicant to supply further information, such as building plans and specifications, to enable the determination of the application.

**Q: Is the owner's consent required for a building certificate?**

An application for a building certificate may be made by:

- The owner of the land; or
- Any other person with the owner's consent; or
- The owner's solicitor/agent; or
- A purchaser who has entered into a contract to purchase the property; or
- The purchaser's solicitor/agent; or
- A public authority that has notified the owner of its intention to apply for the certificate.



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### Frequently asked questions (FAQ's) continued...

**Q: How long do building certificate applications take to process?**

Council generally processes building certificate applications in a period of fourteen (14) to twenty one (21) working days.

**Q: Does Council need to inspect the property?**

**Yes.** Once a building certificate application is received, a Council Officer will undertake a search of Council records and inspect the property. A Council representative will coordinate the site visit with the applicant for the certificate.

**Need further information?**

Contact Council's friendly Planning and Development team for any further information or clarification. A duty planner is available for telephone enquiries between 9.00 am and 1 pm weekdays on (02) 6746 1755 (option #3). If a duty planner is busy and is not available to take your call, please leave a message and we will attend to your enquiry as soon as is practicable.



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