



BYRON SHIRE COUNCIL
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Office Use Only

Application No:
 Parcel No(s):
 Zoning:
 Notations:
 Date Received:/...../.....
 Record No: #...../..... Container:
 # E2015/65616 Amended November 2018

Application for Occupation Certificate

Issued under the Environmental Planning and Assessment Act 1979, Sections 109C (1) (c) and 109H.

Step 1 Type of Certificate Sought

Change of Building Use of an Existing Building Occupation / Use of a New Building

Development or Complying Development Consent No::.....:.....:.....

Date of Determination:

Step 2 Details of Building

Description of the building or part of building to which the application relates:

Whole Part

Building Classification under the Building Code of Australia as identified by the Development Consent:

Existing Classification: New Classification (if changed):

Step 3 Location and Title Description of the Property

We need this to correctly identify the property

Unit No. House No. Street Name Street Type e.g. St, Rd

Suburb or Town Postcode

Lot No Sec No DP No Owner / s

Step 4 Details of the Applicant/s

Council will contact and send all related information to this address

Given Name Surname / Company Name

Given Name Surname / Company Name

Unit No. House No. Street Name / PO Box Street Type e.g. St, Rd

Suburb or Town State Postcode

Contact Name (*if different from Applicant Name) Daytime Telephone

Mobile E-mail for Applicant and/or Contact Person

Step 5 Attachments

Applicants must provide the documents listed below, that are relevant to the type of Development that is proposed. Please confirm that documents relating to the requirements below have been attached.

Development Consent

Fire Safety Certificate

Complying Development Certificate

Schedule 1: Notes

Schedule 2: Agreement for Performance of Certification Work

The Agreement is a requirement for all applications involving building works. The Agreement outlines Council's role as the Certifier for the works, including the associated costs. This is required to be signed by the property owner and then endorsed by Council. A copy of the endorsed Agreement will be sent to the Applicant with the Determination

Schedule 1

NOTES

Note 1

There are two kinds of occupation certificates, as follows:

- (a) an **Interim Occupation Certificate** that authorises a person to commence occupation or use of a partially completed new building, or to commence a new use of part of a building resulting from a change of building use for an existing building,
- (b) a **Final Occupation Certificate** that authorises a person to commence occupation or use of a new building, or to commence a new use of a building resulting from a change of building use for an existing building.

It is not necessary for an interim occupation certificate to be issued before a final occupation certificate is issued with respect to the same building.

Note: a **new building** includes an altered portion of, or an extension to, an existing building.

Note 2

- (1A) Before **an occupation certificate** may be issued, the certifying authority must be satisfied that:
 - (a) a development consent or complying development certificate is in force with respect to the building, and
 - (b) a construction certificate has been issued with respect to the plans and specifications for the building.
- (1B) **An occupation certificate** must not be issued unless any preconditions to the issue of the certificate that are specified in a development consent or complying development certificate have been met. (subs (1B) insrt Act 95 of 2003 s 3 and Sch 1, opn 1 Mar 2004)
- (1C) **An interim occupation certificate** must not be issued to authorize a person to occupy or use a partially completed new building unless the certifying authority is satisfied:
 - (a) that a development consent or complying development certificate is in force with respect to the building;
 - (b) in the case of a building erected pursuant to a development consent but not a complying development certificate, that a construction certificate has been issued with respect to the plans and specifications for the building;
 - (c) that the partially completed building is suitable for occupation or use in accordance with its classification under the Building Code of Australia;
 - (d) that such other requirements as are required by the regulations to be complied with before such a certificate may be issued have been complied with.
- (1D) **An interim occupation certificate** must not be issued to authorize a person to commence a new use in part of a building resulting from a change of building use of an existing building unless the certifying authority is satisfied:
 - (a) that a development consent or complying development certificate is in force with respect to the change of building use, and
 - (b) that the part of the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia, and
 - (c) that such other requirements as are required by the regulations to be complied with before such a certificate may be issued have been complied with.
- (1) **A final occupation certificate** must not be issued to authorize a person to commence occupation or use of a new building unless the certifying authority is satisfied:
 - (a) that a development consent or complying development certificate is in force with respect to the building, and
 - (b) in the case of a building erected pursuant to a development consent but not a complying development certificate, that a construction certificate has been issued with respect to the plans and specifications for the building, and
 - (c) that the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia, and
 - (d) that such other matters as are required by the regulations to be complied with before such a certificate may be issued have been complied with.
- (2) **A final occupation certificate** must not be issued to authorize a person to commence a new use of a building resulting from a change of building use for an existing building unless the certifying authority is satisfied:
 - (a) that a development consent or complying development certificate is in force with respect to the change of building use, and
 - (b) that the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia, and
 - (c) that such other matters as are required by the regulations to be complied with before such a certificate may be issued have been complied with.

Note 3

A final fire safety certificate or **interim fire safety certificate** is not required for a class 1a or class 10 building.

Schedule 2



Agreement for the Performance of Certification Work

**Agreement between
BYRON SHIRE COUNCIL**

(the Council)

and

Please complete	Given Name	Surname / Company Name
	<i>Given Name</i>	<i>Surname / Company Name</i>

(the Client (Owner))

Part A. Introduction

1. The Council is a Certifying Authority and employs an Accredited Certifier (the Certifier) who is authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council.
2. The Client (Owner) seeks to engage the Council to perform certification work on the terms set out in this Agreement.

Part B. Interpretation

Words and terms used in this Agreement are defined in the **Dictionary**.

Part C. Parties to the Agreement

1. The Council

Name of Council: BYRON SHIRE COUNCIL	
Business Address 70 Station Street MULLUMBIMBY NSW 2482	Postal Address PO BOX 219 MULLUMBIMBY NSW 2482
Telephone: 02 6626 7050	Email: lac@byron.nsw.gov.au

2. The Client / Owner(s) Address

Please complete	Unit No.	House No.	Street Name / PO Box	Street Type e.g. St, Rd	
	Suburb or Town			State	Postcode
	Email		Mobile	Daytime Telephone	

Part D. Certifier's Details

These are the details of the employee that Council proposes, at the date of the Agreement, to have carry out the certification work and to perform the inspections. If the Council later decides to have another employee carry out the certification work or to carry out inspections, the Council will within two days notify the Client (Owner) in writing of the name and accreditation number of that other employee.

Name of Certifier	Accreditation Number	Name of Certifier	Accreditation Number
Stephen McCarthy	BPB1280	Greg Smith	BPB2076
Gray Blunden	BPB2209	Tony Maguire	BPB1499
Luke Spooner	BPB3023		

Part E. Certifier's Insurance Details

Only complete if the Certifier holds insurance required by the BP Act. In most cases employees of Council do not hold insurance separate from Council - * **not required as certifiers are employees of Council**

Part F: The Development

Details as noted in Steps 1 to 3 of the Occupation Application Form.

Details of Approved Documents

Plans specifications and other documents approved by a Development Consent / Complying Development Certificate, including the following:

- Architectural Plans
- Engineering Plans
- Structural Design Adequacy Certificate
- BASIX Certificate
- Geotechnical Report
- Housing Specifications
- Site Waste Minimisation Plan

Other Related Documents and Reports relied on for Assessment

Inspections (complete as appropriate)

Any inspections of the development site or the development required under the EP&A Act or the EP&A Regulation will be carried out as follows:

Inspections by the Certifier:

- All None Specific inspections (list):

Inspections by:

Name of Certifier	Accreditation Number	Name of Certifier	Accreditation Number
Stephen McCarthy	BPB1280	Greg Smith	BPB2076
Gray Blunden	BPB2209	Tony Maguire	BPB1499
Luke Spooner	BPB3023		

* These are the details of the person that Council proposes, at the date of the agreement, to perform the inspections. In the event that these proposed arrangements change, Council will inform the Client (Owner) in writing who will be carrying out the inspections as soon as possible after the arrangements are made.

Part G. Certification Work to be Performed

This Agreement relates to the determination of a Construction Certificate, Complying Development Certificate and / or Occupation Certificate applications and undertaking the functions of the Principal Certifying Authority (PCA) for the development.

Refer to relevant **Attachment(s)** that contain a **Description of Services**. This information is available on Council's website.

Part H. Fees and Charges

Development Certificates and PCA Functions

1. Set fees and charges:
 - a. The fees and charges for the determination of an application for a development certificate and to carry out the functions as the PCA for the development are set out in the table below.
 - b. The set fees and charges for the determination of a development certificate and for the carrying out of the functions as the PCA for the development must be paid to the Council before, or at the time, an application for the development certificate is lodged with the Council.
2. Contingency fees and charges:
 - a. In the case of fees and charges that may be payable for work arising from unforeseen contingencies, the basis on which those fees and charges are to be calculated are set out in the table below.
 - b. In respect of any unforeseen contingency work provided for under this Agreement, the Council is to send an invoice to the Client (Owner) within 21 days after the completion of any such work.
3. Functions:
 - a. For the Council to determine applications for a development certificates and carry out the functions as the PCA for the development are set out in the relevant **Attachment(s)**.

Fixed Fee Agreement

Council will undertake for a fixed fee all work involved in assessing, determining and finalising the application as set out in the **Description of Services**, including the costs of any service provided by a third party and any fees for obtaining or lodging documents, **except** for contingency items (if any) specified below:

Contingency items#*

- Re – Inspection Fees (in accordance with Council's adopted Fees & Charges)
- Additional Inspection Fees (in accordance with Council's adopted Fees & Charges)

NOTE *The below information is to be completed when endorsed by Council

Fixed Fee: In accordance with Council's adopted fees and charges as quoted.

• \$ 1,836.00 **Receipt No:** _____ **Paid at Council** ____/____/____

Part I. Statutory Obligations (Tick Appropriate Box)

An information brochure which is to include information about statutory obligations must accompany this Agreement, if one is published by the Building Professionals Board on its website. The Board is the statutory body that accredits the Certifier and administers the *Building Professionals Act 2005*.

The Board has not published a brochure as at the date of the Agreement.

Part J. Date of Agreement

This Agreement is made on theday of

Part K. Endorsement by Authorised Officer of Council

.....
Authorised Officer of Council

Signed / executed by or on behalf of the Council.

Step 6 Privacy Policy

The information you provide in this application will enable your application to be assessed by Council and any relevant state agency. If the information is not provided, Council can refuse the application. Your application will be notified or advertised to the public for comment if the development is Designated Development, Integrated Development or other Advertised Development. Council will also keep the application in a Register that can be viewed by the public at any time. Please contact the Council if the information in your application is incorrect or if it changes. Information collected will be used in accordance with Council's Privacy and Personal Information Management Plan.

Step 7 Signatures of all Owner/s

Section 109E, Environmental Planning & Assessment Act

The owners of the land to be developed must sign the Agreement.

If you are not the owner of the land, you must have all the owner/s sign the application. If the land is Crown land, an authorised officer of the Department of Land and Water Conservation must sign the application. You can only sign on behalf of the owner/s if you have power of attorney or a letter of authority.

As the owner/s of the above property:

- I / we consent to this application and consent to the Council, its servants or agents entering upon the property without first having given notice, for the purpose of carrying out all or any inspections which the Council may deem appropriate in connection with the processing of this application.
- I / we consent to the terms set out in the Agreement between the owner and Council being the certifying authority who employs an Accredited Certifier (the Certifier) who is authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council.

***Note all Owners must give consent by signing**

Please complete	Signature	Signature
	Owner's Name	Owner's Name
	Date	Date

Step 8 Applicants

- Anyone can apply for approval but if the applicant is not the owner of the land, then the owner(s) written consent to lodge the application is required. ***If the applicant/s are the owners of the land, Council also requires signatures below.**
- All correspondence will be sent to the applicant. It is important to notify Council of any change of address and/or telephone number if this occurs during the processing of the application.
- By signing this application, you are acknowledging that you have read the notes and instructions on this form, and have included all the requested information as it applies to this application.
- The information provided in this application is required to enable the application to be assessed by Council and any relevant state agencies. The public is entitled to inspect the application and any associated documents.

***Applicant to ensure all Owners have given consent by signing above**

Please complete	Signature	Signature
	Applicant's Name	Applicant's Name
	Date	Date

Step 9 Payment Options

Council accepts payments by cash, cheque, money order, eftpos or credit card (Visa and Master only) at Council's administration offices. All cheques are to be made payable to Byron Shire Council. Should you wish to mail your application package to Council and wish to use the credit card facility, please download an Authority to Charge Credit Card Form provided.

DICTIONARY

<p>Accredited Certifier means the holder of a certificate of accreditation as an Accredited Certifier under the <i>BP Act</i></p> <p>BASIX means the Building Sustainability Index.</p> <p>BCA means the Building Code of Australia.</p> <p>BP Act means the <i>Building Professionals Act 2005</i>.</p> <p>Certification Work means:</p> <ol style="list-style-type: none">the determining of an application for a development certificatethe issue of a development certificatecarrying out the functions of a PCAcarrying out of inspections for the purposes of section 109E(3)(d) of the EP&A Actcarrying out inspections under section 22 Swimming Pools Act 1992 and issuing certificates of compliance under that Act <p>Contractor licence means a licence issued under the <i>Home Building Act 1989</i></p> <p>EP&A Regulation means the Environmental Planning and Regulation 2000</p> <p>PCA means a principal certifying authority appointed under section 109E of the EP&A Act</p>	<p>Applicable Environmental Planning Instrument means the State Environmental Planning Policy or the Local Environmental Plan nominated by the Client (Owner) as the instrument against which an application for a Complying Development Certificate is to be assessed.</p> <p>Development certificate means:</p> <ol style="list-style-type: none">a certificate under Part 4A of the EP&A Act, being: construction certificate, compliance certificate, subdivision certificate, an occupation certificatea complying development certificatea strata certificate issued under the Strata Schemes (Freehold Development) Act 1973 or the <i>Strata Schemes (Leasehold Development) Act 1986</i> <p>EP&A Act means the <i>Environmental Planning and Assessment Act 1979</i></p> <p>Owner-builder permit has the meaning given to it by the <i>Home Building Act 1989</i></p> <p>Residential building work has the meaning given to it by the <i>Home Building Act 1989</i></p>
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Attachments:

Application for a **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 timely determination of the application, including:

For Occupation Certificate

1. Provide a blank copy of an OC application form to the Client (Owner).
2. Conduct an inspection 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. Ensure 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 application is granted, prepare an OC and issue it to the Client (Owner).
11. Forward copies of documents prepared to the consent authority and the council as required by the EP&A Regulation.

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 Certifier will:
 - a. notify the consent authority of the Certifier's appointment as PCA
 - b. notify the Client (Owner) 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 Certifier 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 Certifier, or ensure that the inspections are carried out by another certifying authority. However, the Certifier will personally carry out the last critical stage inspection that is prescribed for a building.
5. The Certifier will make a record as required by the EP&A Regulation of all inspections that he or she carries out and will ensure that any other certifying authority that has carried out an inspection also prepares a report and supplies it to the Certifier.
6. The Certifier 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. The Certifier will make a record of any such missed inspection as required by the EP&A Regulation and provide a copy to the Client (Owner). The Certifier 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

8. The Certifier 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 the Certifier considers to be in the public interest to address.
9. Without limiting the actions that the Certifier may take, the Certifier may:
 - a. attend the site or nearby properties to inspect any issue of concern relating to the development
 - b. confer with any person in relation to any issues of concern
 - c. cause correspondence to be issued to any person
 - d. refer any matter of concern to such persons or authorities as the Certifier considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency
 - f. issue notices under section 121H of the EP&A Act



Authority to Charge CREDIT CARD

I, The undersigned, authorise the
Byron Shire Council to charge amounts indicated to the following credit card:

Amount: \$.....

Payment For:
.....
.....

*If applicable, please state application number(s).

CONTACT NAME:		
ADDRESS:		
PHONE:	MOBILE:	EMAIL:

PAYMENT SLIP

I wish to pay by MASTERCARD VISA

Expiry date ___ / ___ CCV Code ___ / ___ / ___

Card Number

I authorize a credit card fee of 0.42% to be added to the above amount.

		/ /
CARDHOLDERS NAME	SIGNATURE	DATE

Please return to:

FAX: 02 6684 3018 or
POST: PO Box 219 MULLUMBIMBY NSW 2482 or
EMAIL: council@byron.nsw.gov.au