

16 December 2014

Building Professionals Board  
c/o Department of Planning and Environment

submitted via Department of Planning and Environment webpage

### **SUBMISSION – PROPOSED CRITERIA FOR CATEGORY A5 PORT CERTIFIERS**

The Port of Newcastle is the largest bulk shipping port on the east coast of Australia and the world's leading coal export port. The Port of Newcastle (PON) Port Development Plan identifies that over the next five years both PON and port tenants will undertake a range of development projects within the Port, many of which will be classified as complying development under the SEPP(Three Ports) 2013 ('Ports SEPP'). The efficient and timely assessment of port facilities is therefore critical, to the development and ongoing operation of port facilities and infrastructure.

In this regard, PON supports the Building Professionals Board's progress in preparing an Accreditation Scheme for the accreditation of privately certified A5 port certifiers. The A5 Certifier Scheme will allow appropriately qualified locally based practitioners the opportunity to certify A5 category port development, providing an alternative to Newcastle Council.

The following comments are provided in relation to the specific amendments proposed, and the future implementation of the Accreditation Scheme.

#### **Training of A5 port certifiers**

It is noted that the amendments proposed to section 9.0, 10 and 13.1 of the BPB Accreditation Scheme provide an exemption to Category A5 certifiers with regards to satisfying the core performance criteria required by the other categories of certifier. It is understood that as an alternative all applicants for A5 Certification will be required to complete a course covering the topic of certification under the Ports SEPP and other obligations of a private certifier, and that is course(s) is yet to be developed.

An essential part of a certifier's role is knowledge and understanding of the environmental planning system in New South Wales, including the complying development system. A core competency for A5 certifiers should be the ability to understand and interpret legislation, and land use planning principals, land use definitions, and zoning. Knowledge of related legislation and associated registers maintained by government agencies should also be required, including the following:

- Environmental Planning and Assessment Act, Regulations and environmental planning instruments including SEPP (Infrastructure), SEPP 14 (Coastal Wetlands) and SEPP 33 (Hazardous and Offensive Development);
- Heritage Act 1977;
- Threatened Species Conservation Act 1997;
- Protection of the Environment Operations Act 1997; and
- Contaminated Land Management Act and associated regulations.

Secondly, the training course needs to provide clarity around the certifier's role within the CDC process, particularly with regard to reviewing plans and engineers certificates. The certifier's role is to ensure compliance with provisions of the Ports SEPP, including the checking of submission requirements. It should be emphasized that the certifier's role is not a peer review or merit assessment role in terms of processing CDC applications.

#### Section 28 - Continuing Professional Development

It is assumed that in order to maintain registration under the National Professional Engineering Register (NPER) scheme, ongoing professional development would be a requirement. However, it is suggested that A5 Certifiers also be required to undertake regular training or professional development with regard to carrying out the role as a private certifier under the Ports SEPP, in order to keep up to date with changes in legislation etc.

#### Accreditation Statement – Category A5

With regard to speciality qualifications and experience requirements, there has not been clear justification as to why only NPER engineers have the expertise required to process and issue CDCs or act as a principal certifying authority (PCA) for particular types of complying development.

The majority of non-classifiable complying developments require certification by a 'qualified engineer' at application and final inspection stages. Neither the type of engineer, years of experience or the National Professional Engineering Registration status, is specified for the engineer certifying the structural adequacy and design of various complying development structures

The specified years of experience appear arbitrary and there is little difference between three and five years of experience, given the general infrequency that large scale port infrastructure is developed. In some cases the category of engineer specified for a particular complying development type does not align with the type of structure or the likely construction methodology. Some more detailed comments on the type of speciality qualification and experience requirements are provided in Attachment 1.

Having regard to the above, it is recommended that the category of engineer be open to all categories of engineer for all types of complying development, and that attaining certification be dependent upon the specific experience related to that particular category of complying development demonstrated by the applicant.

Additional Comments

In the event that there is a lack of take up by the private sector of the opportunity to become an A5 certifier, it is essential that Council officers continue to be able to issue non-classifiable complying development CDC's and be appointed as PCA's for such development, without the need to be specifically accredited in the A5 category.

Further, whilst not part of the material currently on exhibition, an examination of the Ports SEPP provisions in the context of complying development has highlighted that the current drafting of some parts of the Ports SEPP is confusing, inconsistent or conflicting. In this regard, PON would appreciate the opportunity to review and propose amendments to the Ports SEPP. It is suggested that a comprehensive review of the instrument be commenced by the Department of Planning within 12 months of the commencement date i.e. by 31 May 2015.

Should you have any further enquiries regarding this mater, please contact Rebecca Johnston Planning Officer on 49088219.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Dowzer'. The signature is fluid and cursive, with a large loop at the end of the last name.

Michael Dowzer  
**Executive Manger Commercial**

## ATTACHMENT 1

<b>Accreditation Statement – Category 5</b>	
<b>2 Bulk Liquids storage tanks</b>	<p>Chemical engineers are likely to have the appropriate skills and understanding to assess the specified hazard and risk studies required under Clause 11 of Schedule 2 of the Ports SEPP. The submission of a certificate by a qualified engineer with regard to the design and structural integrity of the tanks will satisfy the construction element of the development.</p> <p>However, in terms of carrying out critical stage inspections for the construction of bulk storage tanks i.e. prior to the placement of footings or in-situ reinforced concrete building elements, this is not a skill set necessarily within the capacity a chemical engineer.</p>
<b>6 Cranes 18A Ship Loaders 18B Stacker Reclaimers</b>	<p>It should be noted that it is the installation of a crane or crane rails that is considered to be the 'development' and not the actual construction, assembly or mechanical working of the crane. Many of these machines are designed, constructed or pre-assembled off site or even overseas and installed onto as rails wharfs or concrete pads etc.</p> <p>This is a similar situation for the installation of stacker reclaimers and ship loaders and other cargo handling infrastructure. In terms of processing a CDC application a structural engineer or even geotechnical engineer may be appropriate having regard to the land or structure on which the crane, ship loader or stacker reclaimer will be installed, whereas mechanical engineer may not be.</p>
<b>15 Demolition of Structures</b>	<p>Within Schedule 2 demolition of certain structures relates only to structures which have contained dangerous goods, however, there are no specific submission requirements other than compliance with the relevant Australian Standard for demolition.</p> <p>Although a chemical engineer is likely to have expertise in understanding the risks associated with dangerous goods, they may not have the appropriate expertise to assess whether a demolition plan has prepared in accordance with the Australian Standard.</p>
<b>19A Wharves and Berthing Infrastructure</b>	<p>The speciality qualifications requirement for NPER mechanical engineer is inconsistent with the submission requirement at application stage that the design of the wharf or infrastructure be certified by a structural engineer.</p>