

Step-by-Step Guide to Summons for NSW Homeowners in Building Disputes

If you're in a building dispute with a contractor and need access to documents that could help establish their responsibility for the work, you may need to issue a summons to produce documents. This step-by-step guide will walk you through the process of issuing a summons to the NSW Civil and Administrative Tribunal (NCAT).

Step 1: Identify the documents you need

Before you start the process of issuing a summons, you need to know what documents you need. Make a list of all the documents that could help establish the contractor's responsibility for the works, such as contracts, plans, specifications, and statutory authority approvals.

Step 2: Check if the documents are relevant

Under NSW law, a summons can only be issued for documents that are relevant to the proceedings. It's important to ensure that the documents you need are relevant before you issue a summons. If the documents are not relevant, your summons may be refused.

Step 3: Draft a request for the documents

Once you've identified the documents you need and confirmed they are relevant, you need to draft a request for the documents. Your request should be clear and specific, so the party receiving the request knows exactly what documents are being sought.

Step 4: Issue the request to the party

Once you've drafted the request, you need to issue it to the other party in writing. The party then has a certain amount of time to comply with the request.

Step 5: Issue a summons if the party does not comply

If the party does not comply with the request for the documents, you may need to issue a summons to the NCAT. The summons requests the documents from the party and requires them to attend a hearing to produce the documents.

You can be confident that you are getting
the right legal advice.

Step 6: File the summons with the NCAT

To issue a summons, you need to file an application with the NCAT. The application should include details of the documents you're seeking and why they are relevant to the proceedings. The NCAT will then issue the summons to the party.

Step 7: Attend the hearing

Once the summons has been issued, a hearing will be scheduled. You need to attend the hearing and be prepared to explain why the documents you're seeking are relevant to the proceedings. You may also need to provide evidence to support your request for the documents.

Step 8: Objections to access

If the party objects to giving you access to the documents, they may apply for "first access" to the documents to determine if there are grounds for objection. If first access is granted, the party will be able to review the documents before deciding whether to object to your access.

Step 9: Use of summonsed documents

Documents obtained under a summons must only be used for purposes directly connected with the proceedings. Using the documents for any other purpose or publishing their contents for any other purpose may constitute contempt of the Tribunal and be punishable by a fine or other orders.

By following these steps, you can issue a summons to obtain the documents you need to support your case in a building dispute. Remember to be clear and specific in your requests, and be prepared to attend the hearing and provide evidence to support your request for the documents.

It is advantageous to obtain advice and be represented by an experienced construction lawyer who can guide you through the NCAT process and obtain documents you need to establish your case. Phone our office for a free 15-minute consultation.

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the right legal advice.