

CONTRACT WITH THE HILLS SHIRE COUNCIL (HILLS CERTIFIERS) TO PROVIDE BUILDING CERTIFICATION SERVICES

under the Environmental Planning & Assessment Act, 1979 Division 6.3 (previously Sections 81A & 86)

**This application is a contract for certification work in accordance
 with Section 31 of the Building and Development Certifiers Act 2018**
 The Certification Appointment and Service Agreement forms part of this contract

1. INTRODUCTION

- © Use of this form applies where you wish to contract The Hills Shire Council (*Hills Certifiers*) to provide building certification services and carry out certification work, under the Environmental Planning & Assessment Act, 1979.
- © This form is not to be used where replacement of the PC is being considered. The legislation provides limited opportunities and specific requirements that must be satisfied in this regard. For further information please refer to the [NSW Fair Trading website](#).

2. PROPERTY DETAILS

Location of proposed development	Lot:	<input type="text"/>	DP/SP:	<input type="text"/>
	Unit N ^o :	<input type="text"/>	House N ^o :	<input type="text"/>
	Street:	<input type="text"/>		
	Suburb:	<input type="text"/>	Postcode:	<input type="text"/>

3. BUILDING CERTIFICATION SERVICES TO BE PROVIDED UNDER THIS CONTRACT

- EITHER** Assessment of a Construction Certificate application **OR** Assessment of a Complying Development Certificate application
- AND** Principal certifier services – which includes undertaking critical stage inspections and assessment of Occupation Certificate application

Note This contract does not provide for the management or supervision of builders or tradespeople, an Occupation Certificate does not certify that the builder has met all requirements of the applicant's contract with the owner.

4. DESCRIPTION OF PROPOSED DEVELOPMENT – work to be certified

Please provide a detailed description of the proposed works

5. APPLICATION REFERENCE - to which this contract applies

Development Consent N ^o	<input type="text"/>	and/or Portal ID N ^o	<input type="text"/>	Date of lodgement	<input type="text"/>
and					
Construction Certificate N ^o	<input type="text"/>	and/or Portal ID N ^o	<input type="text"/>	Date of lodgement	<input type="text"/>
Or Complying Development Certificate N ^o	<input type="text"/>	and/or Portal ID N ^o	<input type="text"/>	Date of lodgement	<input type="text"/>

5. APPROVAL REFERENCE (cont ..)

Particulars of plans, specifications and other documents relating to the above approval

NB: this is a legislative requirement and must be completed.

Please tick -

All plans and documents as referenced or endorsed within the above approval

and/or

Other/additional plans and documents as detailed below -

PLANS

Drawing N ^o	Description	Sheet	Revision	Date

DOCUMENTATION

Description	Reference	Date

6. FEES & CHARGES

The fees and charges to be paid for the selected building certification services are as listed in the applicable fee estimate, and as otherwise calculated in accordance with the [Certification Appointment and Service Agreement](#).

Fee estimate enquiry Reference N^o. _____ Date of estimate _____

I have attached a copy of the fee estimate to this contract submission.

The fees and charges applicable to the works performed under this contract are payable on appointment, and on or before lodgement of any Construction Certificate or Complying Development Certificate.

7. APPLICANT (APPOINTER'S) DETAILS – person for whom the certification work is to be carried out

Only the owner or person having the benefit of the Development Consent (DC) or Complying Development Certificate (CD) can appoint a Principal Certifier

Applicant must sign declaration in Section 8

Name: or company & contact person

Mobile: Phone:

Email:

Street Name & N^o:

Suburb: Postcode:

Capacity in which I make this appointment:

Owner: Person having the benefit of the DC or CDC:

8. APPOINTER'S DECLARATION

As the owner or person having the benefit of the Development Consent or Complying Development Certificate stated on this form, I appoint The Hills Shire Council (*Hills Certifiers*) to provide the building certification services selected (as per Item 3) of this contract.

- © I declare that all the information provided herewith is, to the best of my knowledge, true and correct.
- © I understand I am entering into a contract with The Hills Shire Council as required by Section 31 of the Building and Development Certifiers Act 2018.
- © I have freely chosen to engage *Hills Certifiers* to carry out all necessary building certification services relevant or related to the development.
- © I have read, understood and accept the terms and conditions contained in the [Certification Appointment and Service Agreement](#).
- © I have read the documents accompanying this contract and understand the roles and responsibilities of both myself as appointer, and of the registered certifier.

NOTE

Any builder, contractor or other person who will carry out the work cannot appoint the Principal Certifier unless that person is the owner of the land.

Signature:

Date:

9. THE HILLS SHIRE COUNCIL DECLARATION

Once satisfactorily completed, signed by the appointer, and accompanied by receipt of payment, The Hills Shire Council considers this contract to be appropriately executed. The date on which the contract is made, will be the date of signature when signed by the appointer or the date of receipt of payment of fees for the selected building certification services – whichever date is the latter.

Documents accompanying the contract

The Building and Development Certifiers Act 2018 requires this contract to be accompanied by any applicable document made available on the website of the Department of Customer Service (Fair Trading). That document, titled 'Information about Registered Certifiers – Building Surveyors and Building Inspectors', is attached to this contract.

10. PRIVACY AND PERSONAL INFORMATION PROTECTION NOTICE

The personal information that Council has collected or is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act (PPIPA) 1998. The intended recipients of the personal information are Officers within the Council, data service providers engaged by the Council from time to time, any other agent/contractor of the Council and other statutory authorities. The supply of the information by you is not voluntary. Council has collected this personal information from you in order to process your request. You may make application for access or amendment to information held by Council. You may also make a request that Council suppresses your personal information from a public register. Council will consider any such application in accordance with the PPIPA.

Council is to be regarded as the agency that holds the information. If you have any further enquiries concerning this matter contact Council's Public Officer on (02) 9843 0555.

General Information about the Government Information (Public Access) Act 2009 is available by calling the Office of the Information Commissioner on 1800 194 210 (free call) or at its website: www.ipc.nsw.gov.au

The following Fair Trading document: 'Information about registered certifiers – building surveyors and building inspectors' is required by law to accompany this contract and is not to be removed or deleted. The document must at all times accompany the contract.

Information about registered certifiers – building surveyors and building inspectors

Important: this is a summary document only.

Before signing any contract for certification work, make sure you understand your obligations and what you are agreeing to. The Fair Trading website has more information about certifiers.

Under section 31(2) of the *Building and Development Certifiers Act 2018* and clause 31 of the *Building and Development Certifiers Regulation 2020*, a contract to carry out certification work must be accompanied by an applicable document made available on the website of the Department of Customer Service (which includes NSW Fair Trading)¹. This is the applicable document for certification work involving a certifier registered in the classes of **building surveyor** or **building inspector**, working in either the private sector or for a local council.

This document summarises the statutory obligations of the registered certifier who will assess your development and your obligations as the applicant for the development. It also sets out the types of information that can be found on Fair Trading's online register of registrations and approvals.

Obligations of registered certifiers

The general obligations of registered certifiers include compliance with their conditions of registration, to hold professional indemnity insurance, comply with a code of conduct and avoid conflicts of interest.

Who does a registered certifier work for?

A registered certifier is a public official and independent regulator, registered by the Commissioner for Fair Trading.

Certifiers must carry out work in a manner that is impartial and in the public interest, even if this is not in the interests of the applicant, developer, or builder. Receiving a certificate is not guaranteed – the applicant is paying for the certifier to assess the application and determine *whether or not* a certificate can be issued.

It is a serious offence to attempt to bribe or influence a certifier, attracting a maximum penalty of \$110,000 and/or two years imprisonment.

¹ Visit www.fairtrading.nsw.gov.au and search 'certification contracts'.

Obligations of the applicant

An applicant is the person seeking a certificate, or engaging a certifier for other certification work, under the *Environmental Planning and Assessment Act 1979*.

As an applicant, you have the following obligations:

- Appoint, and enter into a contract with, your chosen certifier.
- Pay the certifier's fees before any certification work is carried out.
- Communicate with your builder to ensure the certifier is notified when work reaches each stage. If a mandatory inspection is missed, the certifier may have to refuse to issue an occupation certificate.
- Follow any written direction issued by the certifier and provide any requested additional information to assess an application.
- Meet the conditions of any development consent and ensure the development is carried out in accordance with the approved plans.

What does a registered building surveyor do?

Registered **building surveyors** issue certificates under the *Environmental Planning and Assessment Act 1979* (construction certificates, complying development certificates and occupation certificates), act as the **principal certifier** for development, and inspect building work.

The principal certifier will attend the site to carry out mandatory inspections at certain stages. When construction is complete, the certifier may issue an occupation certificate, which signifies that the work:

- is 'suitable for occupation' – this does not necessarily mean all building work is complete
- is consistent with the approved plans and specifications
- meets all applicable conditions of the approval.

The certifier does not manage or supervise builders or tradespeople or certify that the builder has met all requirements of the applicant's contract with the builder.

What does a registered building inspector do?

Registered **building inspectors** carry out inspections of building work² with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

² Building inspectors may inspect class 1 and 10 buildings under the Building Code of Australia; that is, houses, duplexes and the like; garages and sheds; and structures such as swimming pools, retaining walls and fences.

Principal certifier enforcement powers

If the principal certifier becomes aware of a non-compliance with the development approval, the certifier must, by law, issue a direction to you and/or the builder, requiring the non-compliance to be addressed. If it is not, the certifier must notify the council which may take further action.

The certifier is also required to respond appropriately if a complaint is made about the development.

Finding more information on certifiers

Details of the class of registration each certifier holds, their period of registration, professional indemnity insurance and disciplinary history can be found at www.fairtrading.nsw.gov.au:

- [Details of registered certifiers](#) (or search 'appointing a certifier' from the homepage)
- [Disciplinary actions against certifiers](#) (or search 'certifier disciplinary register' from the homepage).

Questions?

The Fair Trading website www.fairtrading.nsw.gov.au has information about certifiers, enforcement powers, how to replace a certifier and resolving concerns about a certifier:

- Search '[what certifiers do](#)' for information about a certifier's role and responsibilities.
- Search '[concerns with development](#)' for information about enforcement powers of certifiers, councils and Fair Trading, and how to resolve concerns about a certifier.

The NSW Planning Portal at www.planningportal.nsw.gov.au provides information on the NSW planning and development certification system.

Note, although Fair Trading regulates certifiers, it does not mediate in contract disputes and does not regulate the actions of councils. Visit the Fair Trading website for more information.