

CONTRACT FOR CERTIFICATION WORK

Appointment of Council as Principal Certifying Authority



OFFICE USE ONLY

CFT No:
 DA No:
 CC No:
 CDC No:
 Assessment No:
 Date:

Building and Certifiers Act 2020 and Building and Certifiers Regulation 2020

PART A: INTRODUCTION

This is an Agreement between Tenterfield Shire Council (the Council) and the Client (as nominated below)

By virtue of the *Environmental Planning & Assessment Act 1979* Council is authorised to perform the functions of a Principal Certifier and employs registered certifiers (the certifier) who are authorised to carry out the Certification Work which is the subject of this Agreement on behalf of the Council.

The Client seeks to engage the Council to perform certain Certification Work on the terms set out in this Agreement

PART B: PARTIES TO THE AGREEMENT

1. THE COUNCIL

Name *Tenterfield Shire Council*
 Address *247 Rouse Street (PO Box 214)*
TENTERFIELD NSW 2372
 Email council@tenterfield.nsw.gov.au Telephone: *02 6736 6000*

2. THE CLIENT (For whom the Certification Work will be carried out)

Client to complete

Name		Company	
Postal Address		PO Box	Telephone
Suburb	State	Postcode	Mobile
Email		Customer Reference	

Please indicate by using an X which of the following applies	<input type="checkbox"/>	Client is the property owner
	<input type="checkbox"/>	Client is duly authorised by the Owner

Note: The person having the benefit of the Consent, so as to be able to appoint the Principal Certifier must be the owner.

PART C: DESCRIPTION OF DEVELOPMENT

Client to complete

Details of development to be certified (e.g. dwelling, garage, swimming pool)

Unit No	House No	Street
Town/Village		
Lot(s)	Section	Deposited Plan (DP)

PART D: DETAILS OF DEVELOPMENT APPROVAL				Client to complete	
Do you have a development consent?			Yes		No
<i>If yes, please provide details below</i>					
Development Consent Number		DA No:	Date Issued:	__/__/__	
Details of any plans and specifications to which these approvals relate					
PART E: CERTIFICATION WORK TO BE UNDERTAKEN				Client to complete	
This Agreement relates to the following Certification Work: <i>Please indicate by using an X which of the following applies</i>					
	The determination of an application for a Complying Development Certification under Section 4.28 (6) of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)				
	The issuing of a Certificate under Part 6 of the EP&A Act:				
	1. Construction Certificate				
	2. Compliance Certification				
	3. Interim or Final Occupation Certificate				
	Appointment of Principal Certifying Authority (PCA) under Section 6.5 of the EP&A Act for building works				
	The carrying out of functions as PCA under the EP&A Act				
	The carrying out of inspections under Section 6.5 of the EP&A Act				
<i>Council will undertake the certification work in a professional manner and in accordance with the requirements of the EP&A Act and the Environmental Planning and Assessment Regulations 2000.</i>					
PART F: CLIENT DECLARATION AND SIGNATURE				Client to complete	
<i>I/We agree to pay all fees in accordance with Council's adopted fees and charges (www.tenterfield.nsw.gov.au) and/or accepted quotation.</i>					
Note: In respect of any unforeseen contingency or additional work provided under this Agreement, the Council will send an invoice to the Client and require payment within 14 days of receipt of the invoice and before the completion of any such work.					
<i>I/We acknowledge that the fees payable are calculated in accordance with Council's adopted Fees & Charges and are to be paid before or at the time of the lodgement of an application for a Development Certificate and/or before the Council commences to carry out any of the functions as the Principal Certifier.</i>					
<i>I/We agree to provide all documents that the Council may reasonably request for it to perform the function of the Principal Certifier.</i>					
<i>I/We agree to provide the Council with access to the development site.</i>					
<i>I/We agree to notify Council of the appointment of the principal contractor. I/We agree to notify the principal contractor of any critical stage inspections required to be carried out in respect of the building or subdivision work.</i>					
<i>I/We acknowledge that I/We have received and understand the description of services as outlined within this Agreement.</i>					
<i>I/We declare that I/We have freely chosen to engage Tenterfield Shire Council as the certifier</i>					
Client(s) Name				Date __/__/__	
Client(s) Signature					

PART G: THE CERTIFIER (Who will carry out the Certification Work)

Council to complete

Council employs registered certifiers who are currently registered by NSW Fair Trading under the *Building and Development Certifiers Act 2020*. The employee that Council proposes, at the date of this Agreement, to carry out the Certification Work is nominated from the below list.

The Client is advised that to the extent that any inspections are required to be carried out under the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* for the Certification Work, those inspections may be carried out by any one of the Council employees listed below who has the necessary accreditation for that work.

Council's Registered Certifiers

Jamie Murphy (BDC1174)

PART H: DATE OF AGREEMENT

Council to complete

This Agreement is made on Date __/__/__

PART I: COUNCIL SIGNATURE

Council to complete

Nominated Certifier: TENTERFIELD SHIRE COUNCIL

Signed on behalf of Tenterfield Shire Council



PRIVACY NOTIFICATION

Council is subject to the *Privacy and Personal Information Protection Act 1998* (NSW) in dealing with your personal information. [Council's Privacy Management Plan](#) and [Privacy Statement](#) describe how the agency meets these obligations. Personal information is being collected for the purpose of processing your application in accordance with the *Environmental Planning and Assessment Act 1979* (NSW) and the *Environmental Planning and Assessment Regulation 2000* (NSW). This includes notification and advertising purposes, and consultation with other NSW government agencies in relation to your application. By providing your personal information you agree for Council to share it from time to time with a third party to conduct customer research or satisfaction surveys relating to your application in order to improve Council processes. You also agree that Council may use your personal information from time to time to contact you and notify you of legislative and other amendments that may have an impact on you. Delegated Council officers and agents acting on behalf of Council will be the recipients of your personal information. The provision of personal information is voluntary, however if you do not provide it we may not be able to process your application. Your personal information will be kept securely in Council's Information Management System in accordance with the relevant legislation. Council's address is 247 Rouse Street, TENTERFIELD NSW 2372. You may access, correct or update your personal information by visiting Council's Chambers, phoning Council on 02 6736 6000 or emailing Council at council@tenterfield.nsw.gov.au.

PART J: FEES AND CHARGES

1. The Council's fees and charges for the contract of Certification Work are viewable via Council's website (www.tenterfield.nsw.gov.au).

Certification Work

Fees for completion of work under this contract:

Complying Development Certificate	\$
Construction Certificate	\$
Construction Certificate	\$
PCA/Inspection Fees	\$
TOTAL	\$
Interim/Final Occupation Certificate	TBA (based on current fees & charges)

2. The fees and charges must be paid to the Council:
 - a. before, or at the time, an application for the Development Certificate is lodged with the Council; and/or
 - b. before the Council commences to carry out any of the functions as the Principal Certifier.
3. In the case of fees and charges that may be payable for work arising from unforeseen contingencies, or where council considers additional fees are required to be paid to complete the work (such as multiple assessments of a single application due to insufficient or substandard information), fees and charges are to be calculated as outlined within Council's adopted fees and charges (www.tenterfield.nsw.gov.au). In respect of any unforeseen contingency or additional work provided for under this Agreement, the Council will send an invoice to the Client and require payment within 14 days of receipt of the invoice and before the completion of any such work.

PART K: INSURANCE

Accredited certifiers employed by Council, exercising the certifying functions on Council's behalf, are not required to be covered by insurance for the purposes of Division 1 of the *Building and Development Certifiers Act 2018*.

PART K: STATUTORY OBLIGATIONS

An information brochure which is to include information about statutory obligations must accompany this Agreement, if one is published by NSW Fair Trading on its website. NSW Fair Trading is the statutory body that issues registration to a Certifier and administers the *Building and Development Certifiers Act 2018* and associated Regulation.

Note: The attached brochure is published on the NSW Fair Trading website and accompanies this agreement.

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 work² 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 work³ 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 Upfront fee payment is required for any work to determine an application for a development certificate or carry out a function of a principal certifier.

³ 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.