



PERFORMANCE OF
CERTIFICATION WORK
CONTRACT OF AGREEMENT

Revision Date 28-09-2020

OFFICE USE ONLY

PART A: INTRODUCTION

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

By virtue of the *Environmental Planning & Assessment Act 1979* Council is a certifying authority and employs accredited 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 employees to perform certain Certification Work on the terms set out in this Agreement *

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 Council employees who have the necessary accreditation for that work.

* Refer to Part E for particulars of Certification Work.

PART B: PARTIES TO THE AGREEMENT

Client to complete

1. THE COUNCIL

Name *Bega Valley Shire Council*

Address *Zingel Place*

PO Box *492*

Suburb *BEGA*

State *NSW*

Postcode *2550*

Email *council@begavalley.nsw.gov.au*

Telephone *(02) 6499 2222*

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

Name _____ Company _____

Postal Address _____

PO Box _____

Telephone _____

Suburb _____

State _____

Postcode _____

Mobile _____

Email _____

Customer Reference _____

Please indicate by 'X' which of the following applies

☐ Client is the property owner

☐ Client is duly authorised by the Owner

Note: The person having the benefit of the Consent, so as to be able to appoint the PCA, may be the owner or an applicant authorised by the owner but may NOT be the builder, unless the builder is the owner.

PART C: DESCRIPTION OF DEVELOPMENT

Client to complete

Provide details of development being certified (e.g. dwelling, garage, swimming pool)

Unit No _____

House No _____

Street _____

Suburb _____

Lot(s) _____

Section _____

Deposited Plan (DP) _____

Other _____

Strata Plan (SP) _____

| PART D: DETAILS OF DEVELOPMENT APPROVAL | | | | | | | | Client to complete | |
|--|---|--|--------|--|------|--|----|--------------------|--|
| Do you have a development consent? | Yes | | Number | | Date | | No | | |
| Details of any plans and specifications to which these approvals relate (e.g. Drw:SFR2345 dated 01/01/2000) | | | | | | | | | |
| PART E: CERTIFICATION WORK TO BE PERFORMED | | | | | | | | Client to complete | |
| This Agreement relates to the following Certification Work: <i>Please indicate by 'X' which of the following applies</i> | | | | | | | | | |
| | Determination of application for, and issue of, a Construction Certificate* | | | | | | | | |
| | Determination of application for , and issue of, an Occupation Certificate* | | | | | | | | |
| | Undertaking the functions of the Principal Certifying Authority (PCA) for the development (Refer to Attachment A for description of PCA functions and responsibilities of the Client). | | | | | | | | |
| | Determination of application for, and issue of, a Complying Development Certificate* | | | | | | | | |
| | Determination of application for, and issue of, a Compliance Certificate* | | | | | | | | |
| | Carrying out of inspections under section 22 of the <i>Swimming Pools Act 1992</i> and issuing certificates of compliance under that Act. | | | | | | | | |
| * These certificates are "Development Certificates" for the purposes of this Agreement. | | | | | | | | | |
| PART F: CLIENT DECLARATION & SIGNATURE | | | | | | | | Client to complete | |
| I/We agree to pay all fees in accordance with Council's adopted fees and charges as detailed in www.begavalley.nsw.gov.au | | | | | | | | | |
| Note: In respect of any unforeseen contingency work provided under this Agreement, the Council is to advise the Client what is required. | | | | | | | | | |
| 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 PCA. | | | | | | | | | |
| I/We agree to provide all documents that the Council may reasonably request for it to perform the function of the PCA and/or Certifier. | | | | | | | | | |
| I/We agree to provide the Council with access to the development site. | | | | | | | | | |
| 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. | | | | | | | | | |
| I/We acknowledge that I/We have received and understand the description of services as outlined within this Agreement. | | | | | | | | | |
| I/We confirm that I/We have freely chosen to engage Council to provide certification services, have read this contract and any documents accompanying this contract and understand both my/our roles and the role of the registered certifier. | | | | | | | | | |
| Client(s) Name | | | | | | | | Date | |
| Client(s) Signature | | | | | | | | | |
| PRIVACY NOTIFICATION | | | | | | | | | |
| <p>Personal and private information supplied to Council is managed in compliance with the Privacy and Personal Information Protection Act 1998. The supply of this information is not voluntary, as it is required by law in order to process your application/request. The intended recipients of the personal information are Officers within the Council, agents/contractor of the Council and other statutory authorities. You may apply for access or amendment to your personal information held by Council. You may also request that Council suppresses your personal information from a public register. If you have any further enquiries concerning this matter, contact Council on (02) 6499 2222, or the Information and Privacy Commission 1800 472679 or email mailto:ipcinfo@ipc.nsw.gov.au or the website www.ipc.nsw.gov.au.</p> | | | | | | | | | |

Information about registered certifiers - building surveyors and building inspectors GUIDELINE

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 Building Commission 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 Building Commission NSW).¹ This is the applicable document for certification work involving a certifier registered in the class 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 the Building Commission'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 Building Commissioner.

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.nsw.gov.au/departments-and-agencies/building-commission.

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 on the Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission

Questions?

The Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission has information about certifiers, enforcement powers, how to replace a certifier and resolving concerns about a certifier.

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

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

| Contact us |
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| For more information please contact Building Commission NSW: |
| T: 13 27 00 |
| W: nsw.gov.au and search 'Building Commission NSW' |