

CONTRACT FOR THE PERFORMANCE OF CERTIFICATION WORK

Section 31 of the Building and Development Certifiers Act 2018 Section 6.5 of the Environmental Planning and Assessment Act 1979

Declaration: I hereby appoint Blayney Shire Council as the Principal Certifier for the following development (detailed below) pursuant to section 6.5 of the Environmental Planning and Assessment Act 1979.

This contract is between the applicant(s) and Blayney Shire Council, where Council will undertake the following certification functions where applicable –

- (a) the determination of a development certificate including a complying development certificate, construction certificate, subdivision works certificate, occupation certificate and subdivision certificate;
- (b) carrying out inspections of building work (but only if Council is the Principal Certifier or the inspection is carried out with the approval of the Principal Certifier),
- (c) carrying out inspections of subdivision work (but only if Council is the Principal Certifier or the inspection is carried out with the approval of the Principal Certifier.
- (d) carrying out the duties of a Principal Certifier where appointed.

Note: The person appointing the Principal Certifier must have the benefit of the development consent or have the approval of the person who has the benefit of the development consent.

1. Introduction

The Blayney Shire Council is a certifying authority and employs registered certifiers to carry out certification work, as defined by section 4 of the Building and Development Certifiers Act 2018, on behalf of Council. Each registered certifier holds individual registration under the Building and Development Certifiers Act 2018 to enable the certifier to undertake certification work.

As the applicant, you are seeking to engage Council and its registered certifiers to undertake certification works on the terms set out in this contract.

2. Registered Certifiers

Name: Blayney Shire Council

Address and place of business: 91 Adelaide Street, Blayney NSW 2799

Email: planning@blayney.nsw.gov.au

Contact Number: (02) 6368 2104

The following officers are employed by Council as registered Certifiers and may carry out certification work in relation to the subject development under this contract.

Council Registered Certifiers	Registration No.
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Mark Bakker	BDC0964
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Chloe Fulthorpe	BDC2795
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Mark Dicker	BDC1354
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3. Applicant Details

Name:	
Company/Organisation:	
Address:	
Email:	
Contact Number:	

4. Proposed Building Work

Description of development:

5. Site/Property Description

Address:		
Lot No.	Section No.	DP No.

6. Certification work to be undertaken

The following certification work is requested to be undertaken by Blayney Shire Council as part of this contract.

<input type="checkbox"/> The assessment and determination of an application for a Complying Development Certificate under Section 4.28 of the Environmental Planning and Assessment Act 1979 (EP&A Act).
<input type="checkbox"/> The assessment and determination of an application for a Construction Certificate under Section 6.5(1)(a) and 6.8 of the EP&A Act.
<input type="checkbox"/> The assessment and determination of an application for an Occupation Certificate under section 6.5(1)(c) and 6.10 of the EP&A Act
<input type="checkbox"/> The appointment of Blayney Shire Council as the Principal Certifier for the development under Section 6.6(1) of the EP&A Act and the carrying out of inspections under Section 6.5(1)(b)
<input type="checkbox"/> The carrying out of inspections under Section 6.5(1) (b) of the EP&A Act with the approval of the Principal Certifier, in the case where Blayney Shire Council is not nominated as the Principal Certifier.

Blayney Shire Council will undertake the certification work requested above in a professional manner and in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, the Environmental Planning and Assessment Regulation 2021, the Building and Development Certifiers Act 2018 and the Building and the Development Certifiers Regulation 2020.

Where the applicant is also the owner of the property the applicant, in signing this contract grants consent to Council's registered Certifiers to enter the subject property for the purposes of undertaking the requested certification work mentioned above during reasonable working hours.

Where the applicant is not the owner of the property:

- a. it warrants, by signing this contract, that it has obtained the consent of the owners of the property for the Council's registered Certifiers to enter the property for the purposes of undertaking the requested certification work mentioned above during reasonable working hours; and
- b. it indemnifies the Council in the event that the Council incurs any loss or damage in relying on that warranty.

7. Description of the development site and development works.

Type of approval (related to this development)	Consent Authority	Determination Number	Determination Date
Development Consent		DA:	
Construction Certificate		CC:	
Complying Development Certificate		CDC:	

☐ Notice of commencement of building works in relation to the above approvals, work is to commence on _____

Owner Builder or Builder details	Name	Permit reference number
Owner Builder Permit		
Home Warranty Insurance		

8. Plan, Specifications and Documents

All plans, specification and related documentation which are issued in connection with the relevant development certificate, including any subsequent modifications, form part of this contract.

9. Fee and Charges

The fees and charges for the certification works requested as part of this contract will be calculated in accordance with Blayney Shire Councils adopted fee's and charges which is available on Councils website at <https://www.blayney.nsw.gov.au/>

The total fees and charges to be paid for the certification work requested to be undertaken by Blayney Shire Council under this contract are set out in the attached fee estimate quote.

Contingencies

Additional fees and charges may be payable in accordance with Blayney Shire Councils adopted fee's and charges in the following circumstances as determined by Councils registered certifiers:

- Required additional critical stage inspections or other inspections due to staging of building works or variations in the construction sequence;
- Re-inspection of works as a result of the relevant stage of construction not being ready, incomplete or unsatisfactory;
- Modifications or variations to a development certificate and associated plans and documentation and additional on-site meetings

Where Council carries out work as a result of unforeseen contingencies, Council will calculate the fee based on its fee's and charges.

10. Payment of Fees and Charges

Determination of application for development certificate:

Where the requested certification works involves the determination of an application for a development certificate, all fees and charges payable for the determination (excluding any fees and charges for works arising as a result of contingencies or unforeseen contingencies) must be paid on or before the lodgment of the applicable application.

Appointment as Principal Certifier:

Where the requested certification work involves the carrying out of functions of a Principal Certifier, all fees and charges payable for carrying out those functions in respect of the subject development (excluding any fees and charges for works arising as a result of unforeseen contingencies) must be paid before the functions are carried out.

Unpaid Fees:

You acknowledge and accept that Council may suspend services where required fees and charges have not been paid or remain outstanding.

The Council may also recover any amount owing as a debt due and payable to the Council.

11. Contract Execution

This appointment of Principal Certifier and Contract for carrying out certification work is made on the date it is signed by Council.

Applicants Signature

I accept the terms and conditions of this contract including the associated payment of fees and confirm that: <ul style="list-style-type: none">• I have authority to appoint Blayney Shire Council as the registered certifier for this development• I have freely chosen to engage Blayney Shire Council as the registered certifier;• I have read the contract and documents accompanying the contract and understand the roles and responsibilities of the person and the registered certifier• I consent, or have obtained the consent of the owners of the premises, to allow the Council's certifiers to enter the property to perform the relevant services under this contract.	
Applicant Name:	
Signature:	Date:

Council's Signature

Signed for and on behalf of Council by an authorised officer:

Officer's Name:	
Officer's Position:	
Signature:	Date:

12. Statutory Obligations of Registered Certifiers

This contract must be accompanied by any applicable document that the Secretary makes available on the website of the Department of Fair Trading for the purpose of addressing-

- (a) The role and statutory obligations of registered certifiers, and
- (b) The role of the person for who the certification works to carried out, and
- (c) The types of information that can be found on the register of registrations and approvals maintained under section 102 of the Building and Development Certifiers Act 2018.

The applicable documents will be attached to this contract when executed by Council.

<p>Note 1 This form has been forwarded to you, as the person having the benefit of the Development Application, who is entitled to appoint the Principal Certifier for the above Development.</p> <p>Note 2 Only the owner of the property or the applicant for the Development Consent or the Complying Development Certificate can appoint a Principal Certifier. The agent/contractor, including the builder, cannot appoint a Principal Certifier.</p> <p>Note 3 You are requested to complete this front page, authorising Council to act as the Principal Certifier on your behalf and return to the address above.</p> <p>Note 4 Council will forward to you a Principal Certifier (PC) Service Agreement Contract which stipulates details of the extent of the service offered by Council as well as the responsibilities of Council and you as the applicant during the building process.</p>

Note 5

The attached conditions are to be retained in your files to enable you to fulfil your obligations under the Environmental Planning and Assessment Act 1979 and associated regulation.

Statement of Authorisation:

In signing this form I hereby accept and will attend to the attached conditions and authorise Blayney Shire Council to forward, to the builder, copies of correspondence relating to critical stage and other mandatory inspection conducted by Council as the Principal Certifier:

1. To obtain all other necessary approvals required by Telstra, Country Energy, AGL, Blayney Shire Council or other relevant service/regulatory authority.
2. For residential building work contracted out to a builder, to provide evidence to Blayney Shire Council prior to commencement of the building work that my builder is licensed and insured.
3. For residential building work undertaken as an owner-builder, to provide evidence to Blayney Shire Council that an owner-builder permit, has been obtained.
4. To discuss with Blayney Shire Council any alterations or amendments proposed to the plans approved under the Construction Certificate. Blayney Shire Council reserves the right to refuse consent to any alterations or amendments to the plans approved under the Construction Certificate and may require the submission of a further Construction Certificate or amendment to the existing Construction Certificate and or Development Application.
5. To ensure that any necessary approvals for alterations or amendments to the Development Consent are obtained from Blayney Shire Council before the amended works are commence.
6. Not to occupy the building prior to the issue of an Occupation Certificate by Blayney Shire Council.
7. To take all reasonable steps to ensure that the appropriate inspection, fire safety certificates and conditions of development consent/complying development certificate are conducted, obtained and complied with to allow issue of the Occupation Certificate.
8. To ensure that your agents erect upon the subject building site, the required building contractor's sign as specified under the Environmental Planning and Assessment Regulation 2021, prior to building work commencing. The sign shall include the Council's name (Blayney Shire Council) as the appointed Principal Certifier for the work, and the telephone number (6368 2104) as its contact number.

Note:

For the purposes of this notice the following terms are defined:

- **Principal Certifier:** means Blayney Shire Council including its officers and staff.
- **Owner:** means the person(s) who owns the land the subject of the development consent or complying development certificate to which the subject building works relate.
- **Applicant:** means the person(s) entitled to act upon the development consent or complying development certificate to which the subject building works relate.
- **Agent:** means the builder, clerk of works, supervisor, contractor or other persons engaged by the Applicant to undertake the construction of the subject building work for or on behalf of the Applicant, whether in part or as a whole.

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