

Contract for Certification Work

Document Number: 20/162537 / CM SF20/3529 (Part 2)

[In addition to Council's application form OR if submitting your application via the NSW Planning Portal, you must complete this contract for works.]

Contract for Certification Work

PART 2 represents a Contract for Certification Work, in accordance with Section 31 of the Building and Development Certifiers Act 2018. The contract is between Bayside Council and the Applicant specified in the "Applicant Details" section in Part 1 (application form).

The person for whom the certification work is to be carried out has the same address and contract details as specified in the "Applicant Details" Section in Part 1 (application form).

This contract relates to the following certification work:

- The carrying out by Bayside Council of the functions of a Principal Certifier (PC) under the *Environmental Planning and Assessment Act 1979* (EP&A Act) in relation to the Development (as specified in the "Description of Development" section in Part 1);
- Application and determination of a Construction Certificate;
- Application and determination of an Occupation Certificate;
- The carrying out of inspections for the purposes of S 6.5 of the EP&A Act;

Details and Particulars of the:

- development,
- address, and formal particulars of title, of the site of the development;
- particulars in respect of any related development consent;
- particulars of any plans the subject of any related development consent,

These are contained in Part 1, under the sections "Details of Development" and "Property Details", unless otherwise specified as follows.....

Applications for a Construction Certificate and Occupation Certificate will be assessed and determined by a Council Building Certifier (registered in NSW Fair Trading), in accordance with the relevant requirements of the EP&A Act and the *Building and Development Certifiers Act 2018*.

Postal address

PO Box 21, Rockdale NSW 2216

ABN 80 690 785 443

Bayside Customer Service Centres

Rockdale Library, 444-446 Princes Highway, Rockdale

Westfield Eastgardens, 152 Bunnerong Road, Eastgardens

E council@bayside.nsw.gov.au

W www.bayside.nsw.gov.au

T **1300 581 299 | 02 9562 1666**

Telephone Interpreter Services: 131 450

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمه الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

The Certification Work specified above, including the carrying out of required inspections under the EP&A Act, will be carried out by one or more of the following Council Building Certifiers (registered in NSW Fair Trading) on behalf of Bayside Council.

Name	Position Title	Accreditation No.	Contact Details
Tim DeBeck	Senior Building Certifier	BPB1350	1300 581 299
Sam Zafiropoulos	Senior Building Certifier	BPB1351	1300 581 299
Louie Apostolou	Senior Building Certifier	BPB1645	1300 581 299
Paul Cox	Senior Building Certifier	BPB1170	1300 581 299
William Chick	Building Certifier	BPB1663	1300 581 299
Robert Kozarovski	Coordinator Program Certification	BPB1548	1300 581 299
Thomas Kulchar	Coordinator Development Certification	BPB1637	1300 581 299

Council will advise the applicant/client of the principal officer dealing with this application and subsequent PC inspections and services. However, the application and PC inspections and associated services may be carried out by any accredited Council Building Certifier or Registered Certifier appointed or engaged by Council.

Fees & Payment Methods

Fees and charges for initial Certification Work will be calculated by the Customer Service Officers at lodgement. Information on these fees are available on Council's website or from our Customer Service Centres.

Total Fees and charges for the initial Certification Work (to be filled in by Council):

.....

This fees and charges will need to be paid prior to the carrying out of the certifier's function e.g. prior to the issue of the Construction Certificate. (Clause 29).

Contingency Fees and Charges

Fees and charges may also be payable under this contract for carrying out work arising as a result of unforeseen contingencies. The basis upon which such fees and charges will be calculated is as follows:

Fees and charges in accordance with Council's current "Fees and Charges" Schedule.

Council will issue an invoice for work carried out arising from unforeseen contingencies within 21 days after completion of any such work.

Council's professional insurance details are:

Insurer(s): Swiss Re International SE (Australia Branch) and various Lloyd's and Overseas Underwriters.

Policy Number: MH 148551 & Others

Period of Insurance: 4.00pm, 31 October 2019 to 4.00pm, 31 October 2020

Signatures in relation to the Contract for Certification Work

IMPORTANT NOTE: this contract cannot not be signed until the total fees and charges have been calculated.

I, hereby confirm that I have freely chosen Bayside Council as the certifier and have read the contract and any document accompanying the contract and understand the roles and responsibilities of the person and the registered certifier.

Client

Date

Bayside Council Officer

Date

Bayside Council Contact Details:

Phone: 1300 581 299
Email: council@bayside.nsw.gov.au
Website: www.bayside.nsw.gov.au

Notes for completing a Construction Certificate Application

Note 1 - Information required to be provided

The following information must accompany applications for construction certificates for building and subdivision work.

Building Work

- Copies of compliance certificates (or other documentary evidence) relied upon.
- Copy of detailed plans and specifications. The plan for the building must be drawn to a suitable scale and consist of a general plan and a block plan. The general plan of the building is to:
 - Show a plan of each floor section;
 - Show a plan of each elevation of the building;
 - Show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground; and
 - Indicate the height, design, construction and provision for fire safety and fire resistance (if any).

Where the proposed building work involves any alteration or addition to, or rebuilding of, an existing building the general plan is to be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.

Where the proposed building work involves a modification to previously approved plans and specifications the general plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

The specification is:

- To describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply; and
- State whether the materials proposed to be used are new or second hand and give particulars of any second-hand materials to be used.
- Copy of structural engineering plans or other technical details (ie Mechanical ventilation details, hydraulic/drainage details, timber framing and roof truss details and termite protection details etc), where applicable.
- The plans and specifications must detail compliance with the relevant provisions of the Building Code of Australia and relevant standards of construction.
- Where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:
 - Details of the performance requirements that the alternative solution is intended to meet, and
 - Details of the assessment methods used to establish compliance with those performance requirements.
- Evidence of any accredited component, process or design sought to be relied upon.
- Except in the case of an application for, or in respect of, a class 1a or class 10 building:
 - A list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated, and
 - If the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, an existing building, a separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated.
 - The list must describe the extent, capability and basis of design of each of the measures concerned.

Subdivision Work

- Copies of compliance certificates relied upon.
- Copies of detailed engineering plans. The detailed plans may include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - erosion control works

Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

Where the proposed subdivision work involves a modification to previously approved plans the plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

Note 2 - Home Building Act Requirements

As from 1 February 2012, all residential building works (excluding residential development of over 4 storeys) over the value of \$20,000 will need to be insured under the Act for Home Warranty Insurance.

In the case of an application for a construction certificate for residential building work (within the meaning of the *Home Building Act 1989*) attach the following:

In the case of work by a licensee under that Act:

A statement detailing the licensee's name and contractor licence number, and Documentary evidence that the licensee has complied with the applicable requirements of that Act (ie A certificate of insurance under Part 6 of the *Home Building Act*), or

In the case of work done by any other person:

A statement detailing the person's name and owner-builder permit number, or a declaration signed by the owner of the land, to the effect that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work. The prescribed amount in section 29 of the *Home Building Act 1989*.

The construction certificate application may be lodged prior to providing details of compliance with the Home Building Act insurance requirements, however, residential building works must not be commenced prior to complying with the insurance requirements and details of compliance must be submitted to the principal certifying authority and Council prior to the uplift of the Construction Certificate.

Insurance before handover.

Note 3 - Building Industry Long Service Levy Requirements

Under S 6.8 of the *Environmental Planning and Assessment Act 1979* a construction certificate cannot be issued until any long service levy payable under section 34 of the *Building and Construction Industry Long Service Levy Payments Act 1986* (or where such a levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. The levy rate as at (1 June 2003) is 0.35% of the total cost of the work and is payable on work costing \$25,000 or more.

Further information on complying development can be obtained by telephoning Council's Building Certification Services on 1300 581 299 on Monday to Friday between 8:30am and 5pm or in person at Council's Customer Service Centres at either 444-446 Princes Highway Rockdale, or at Eastgardens Shopping Centre, 152 Bunnerong Road, Eastgardens on Monday to Friday between 8:30am and 4:30pm and Saturday (excepting public holidays) 9am to 1pm.

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.