

# Contract for Certification Work

Under section 31 of the *Building and Development Certifiers Act 2018* and clause 31 of the *Building and Development Certifiers Regulation 2020*.

## About this form (contract)

Eurobodalla Shire Council must not carry out certification work for a person unless it has entered into a written contract with that person. You must therefore complete and sign this Contract for Certification Work and attach it to your application.

When the contract is received, it will be signed by an authorised officer and a copy of the executed contract will be emailed to you for your records.

## How to complete this form (contract)

1. Ensure that all fields have been filled out correctly.

### Part A: Parties to this contract

#### 1. Applicant

Title                      Given name(s)                      Family name

Organisation name /company name (if applicable)

Address

Preferred contact number

Email address

#### 2. Eurobodalla Shire Council

ABN 47 504 455 945  
Vulcan Street, Moruya NSW 2537  
T: 02 4474 1000  
E: council@esc.nsw.gov.au

### Part B: Introduction

- Council is a certifying authority and employs registered certifiers who are authorised to carry out certification work on behalf of Council.
- Section 31(1) of the *Building and Development Certifiers Act 2018* says that Council must not carry out certification work for a person unless it has entered into a written contract with that person.
- The applicant appoints Council to carry out certification work on the terms set out in this contract.

**Part C: Application type**

3. **I am the applicant described in the attached application for:** (tick as applicable)
- Complying Development Certificate Application**   
 (Note: You may elect to appoint Council as Principal Certifier at a later stage - see Part E)
  - Construction Certificate Application**   
 (Note: You may elect to appoint Council as Principal Certifier at a later stage - see Part E)
  - Application for Subdivision Works**
  - Compliance Certificate Application**
  - Occupation Certificate Application**   
 (Note: You may elect to appoint Council as Principal Certifier at a later stage - see Part E)
  - Notice to Council of Intention to Commence Work - Construction Certificate/  
 Complying Development Certificate**
4. The information contained in the attached application form is incorporated into this contract.

**Part D: Certification work to be performed by Council**

5. The applicant appoints Council to perform the following certification work: (tick as applicable)
- Determination of Applications for Development Certificates**
  - Determination of Application for a Complying Development Certificate
  - Determination of Application for Construction Certificate
  - Determination of Application for Subdivision Works Certificate
  - Determination of Application for Compliance Certificate
  - Determination of Application for Occupation Certificate
  - Undertaking the function of Principal Certifier (PC)**
  - Appointment of Council as Principal Certifier

**Note:** If you select Council to be your PC, you will also need to formally appoint Council as the PC to carry out inspections and to issue an Occupation Certificate. A Notice to Commence Work will be forwarded to you with your PC approval letter, allowing you to commence work.

## Part E: Subsequent Appointment of Council as Principal Certifier

6. Particulars of the certification services to be carried out by Council under the contract can be found under 'Building and certification' on Council's website.

**Note: This part only applies to determinations of applications for:**

- **Complying Development Certificates**
- **Construction Certificates**
- **Subdivision Works Certificates**
- **Occupation Certificates.**

7. After entering into this contract, the applicant may elect to appoint Council as PC for the development.
8. If the applicant elects to appoint Council as PC for the development, upon lodgement of the form 'Application for Certificates and Appointment of Principal Certifier for Building Works' with Council, the applicant agrees that:
- a. This contract will also apply to the subsequent appointment of Council as PC for the development.
  - b. The information contained in the application form 'Application for Certificates and Appointment of Principal Certifier for Building Works' will be automatically incorporated into this contract.
  - c. The fees and charges in Part I will apply.

## Part F: Modification of Complying Development Certificate, Construction Certificate or Subdivision Works Certificate

**Note: This part only applies to determinations of application for:**

- **Complying Development Certificates**
- **Construction Certificates**
- **Subdivision Works Certificates.**

9. After entering into this contract, the applicant may seek to modify any of the above certificates for the development.
10. If a modification is sought, upon lodgement of the application form for any of the above certificates with Council relating to the modification, the applicant agrees that:
- a. This contract will also apply to the subsequent modification application for the development.
  - b. The information contained in the application form will be automatically incorporated into this contract.
  - c. The fees and charges in Part I will apply.

**Part G: Development details**

11. In addition to the site details contained in the attached application form, the applicant declares that:

a. The development can be described as (eg, single storey dwelling):

b. The following development consent details apply (tick as applicable):

Development consent granted by consent authority

Name of consent authority

Development consent no./ identifier

Date of development consent

Development consent given by the issue of a Complying Development Certificate (CDC)

Name of certifying authority

CDC no./ identifier

Date of CDC (determination)

Part 6 certificates issued under the *Environmental Planning and Assessment Act 1979* (Construction Certificate, Compliance Certificate, Subdivision Works Certificate, Occupation Certificate)

Type of Part 6 certificate issued

Name of certifying authority

Certificate no. / identifier

Date of certificate (determination)

c. The following approved documents apply:

Details of plans, specifications and other documents approved by development consent/CDC:

Details of plans, specifications and other documents the subject of any Part 6 certificate:

## Part H: Certifier's details

12. The details of the officers and approved contractors employed by Council as PCs, any of whom may carry out certification work and inspections under this contract, can be found on the NSW Fair Trading website at: <https://applications.fairtrading.nsw.gov.au/bdcregister/>

## Part I: Fees and charges

### Determination of Applications for Development Certificates

13. The applicant must pay the fees and charges for the determination of an application for a Development Certificate (including modification of a current certificate, where relevant) as specified in Council's schedule of fees and charges.
14. These fees and charges must be paid to Council before, or at the time, the application for a Development Certificate is lodged with Council.
15. In the case of fees and charges payable for work arising from unforeseen contingencies, such as the assessment of performance solutions, these fees and charges will be calculated as specified in Council's schedule of fees and charges. Council will issue a payment notice to the applicant within 21 days after the completion of such work and the applicant must pay by the due date specified on the payment notice.

### Undertaking the functions of Principal Certifier (PC)

16. The applicant must pay the fees and charges for Council to carry out the functions of a PC for the development as specified in Council's schedule of fees and charges.
17. These fees and charges must be paid to Council in full at the time of lodging the PC appointment form (after the certificate is issued) and before Council commences to carry out the functions of PC.
18. In the case of fees and charges payable for work arising from unforeseen contingencies, these fees and charges will be calculated as specified in Council's schedule of fees and charges. Council will issue a payment notice to the applicant within 21 days after the completion of such work and the applicant must pay by the due date specified on the payment notice.

### Council's schedule of fees and charges

19. Council's schedule of fees and charges is available for download from Council's website and it is the responsibility of the applicant to obtain a copy.  
Download: <https://www.esc.nsw.gov.au/council/current-fees-and-charges>

**Part J: Information brochure**

20. The *Building and Development Certifiers Regulation 2020* states:  
 A contract must be accompanied by any applicable document that the Secretary makes available on the website of the Department for the purposes of this clause addressing:
- a. the role and statutory obligations of registered certifiers, and
  - b. the role of the person for whom the certification work is 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 Act.
- The document is attached to, and forms part of, this contract.

**Part K: Execution of contract**

Declaration:

1. I have freely chosen to engage the certifier, and
2. I have read the contract and the document referred to in clause 20 above, and understand my responsibilities to those of the certifier.

This contract is made on the date it is signed by

**Council: Individual applicant**

**SIGNED** by the applicant in the presence of:

Witness signature:

Applicant's signature:

Name and address of witness (printed):

Applicant's name (printed):

Date:

**Incorporated company**

**SIGNED** by the applicant in accordance with section 127 of the *Corporations Act 2001*:

Director signature:

Director / secretary signature:

Name (printed):

Name (printed):

Date:

**SIGNED** \*\* for and on behalf of Eurobodalla Shire Council by its duly authorised officer in the presence of:

**Authorised officer**

Witness signature:

Authorised officer signature:

Name of witness (printed):

Name of authorised officer (printed):

Date:

\*\* This section will be completed by the Building Certification Team after lodgement.

## Lodgement details

This form must be submitted with your application at lodgement. Please refer to the application form lodgement details or for applications lodged via the NSW Planning Portal, please attach to your application at the time of lodgement.

For further information regarding your application please contact us by:

**E:** [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

**T:** 02 4474 1000

**W:** [www.esc.nsw.gov.au](http://www.esc.nsw.gov.au)

## Privacy and Personal Information Protection Notice

<b>Purpose of collection:</b>	For Council to carry out certification work for an individual or organisation.
<b>Intended recipients:</b>	Council staff and approved contractors of Eurobodalla Shire Council.
<b>Supply:</b>	A Contract of Certification Work is required by law in order for Eurobodalla Shire Council to carry out certification work. The contract must be correctly completed and signed for certification work to occur.
<b>Access/correction:</b>	Contact Eurobodalla Shire Council Customer Service Centre to access or correct this information.
<b>Storage:</b>	Eurobodalla Shire Council, Vulcan Street, Moruya, NSW.

## 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)<sup>1</sup>. 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.

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<sup>1</sup> Visit [www.fairtrading.nsw.gov.au](http://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<sup>2</sup> 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 work<sup>3</sup> with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

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<sup>2</sup> 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.

<sup>3</sup> 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](http://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](http://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](http://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.