

Contract for Certification Works

Planning, Environment & Development Group

73A of the Building Professionals Act 2005 (NSW)

Clause 19A of the Building Professionals Regulation 2007 (NSW)

Guidance

A Principal Certifying Authority is abbreviated throughout this Contract to PCA.

Council is a certifying authority and employs accredited certifiers who are authorised to carry out certification work on behalf of Council. Section 73A of the Building Professionals Act 2005 (NSW) says that Council must not carry out certification work for a person unless it has entered into a written contract with that person. You must therefore have an owner complete and sign this Contract for Certification Work and attach it to your application.

Guidance for completing this contract can be found within the [Planning, Environment & Development Group HUB](#) located on Council's website.

1 Parties to the Contract

Owner

Mr Mrs Ms Other (specify):

First Name:

Last Name:

Email:

Note: At least contact number must be supplied.

Mobile:

Home:

Business:

Postal Address Shop /Unit / Street No.:

Street Name:

Suburb / Town / Village / Locality:

State:

Postcode:

Shoalhaven City Council

ABN: 59 855 182 344

Address: Bridge Road Nowra NSW 2541

Phone: 02 4429 3211 Email: council@shoalhaven.nsw.gov.au

Hereafter referred to as 'Council'

Office use only

Related Policies:

Issue Date: 14/11/2018

Review Date: 1/03/2019

Owned by (section): Development

2 Application Type

The owner appoints Council to carry out certification work on the terms set out in this contract.

- a complying development certificate,
- a strata certificate,
- subdivision certificate (Part 4A Certificate)
- occupation certificate (Part 4A Certificate)
- construction certificate (Part 4A Certificate)
- compliance certificate (Part 4A Certificate)
- carrying out principal certifying authority functions
- carrying out inspections under the Environmental Planning and Assessment Act 1979

The information contained in the Application form is incorporated into this contract.

3 Certification work to be performed by Council

The owner appoints Council to perform the following certification work:

- Determination of application for a complying development certificate
- Determination of application for construction certificate
- Determination of application for subdivision construction certificate
- Determination of application for compliance certificate
- Determination of application for occupation certificate

4 Subsequent Appointment of Council as PCA

Note:

This section only applies to determinations of applications for:

- **complying development certificates**
- **construction certificates**
- **occupation certificates**

After entering into this contract, the owner may elect to appoint Council as PCA for the development.

If the owner elects to appoint Council as PCA for the development, upon lodgement of the form:

['Notice of Commencement of Building or Subdivision Work and appointment of Principal certifying Authority'](#) with Council, the owner agrees that:

- a) this contract will also apply to the subsequent appointment of Council as PCA for the development;
- b) the information contained in the application form ['Notice of Commencement of Building or Subdivision Work and appointment of Principal certifying Authority'](#) and Appointment of Council as PCA will be automatically incorporated into this contract;
- c) Fees and Charges will apply.

5 Modification of Certificates and Staged Construction Certificates

Note:

This Part only applies to determinations of application for:

- **complying development certificates**

- **construction certificates**

After entering into this contract, the owner may seek to modify a current Complying Development Certificate or Construction Certificate for the development.

If a modification is sought, upon lodgement of the application form '[Complying Development Certificate](#)'; '[Construction Certificate Application - building works](#)' or '[Construction Certificate Application - subdivision](#)' with Council relating to the modification.

The owner agrees that:

- this contract will also apply to the subsequent modification application for the development;
- the information contained in the application form 'Complying Development Certificate'; or 'Construction Certificate Application – building works' or 'Construction Certificate Application – subdivision' will be automatically incorporated into this contract;
- Fees and Charges will apply.

Or if a Staged Construction Certificate is applied for this contract applies across all stages and construction certificates related to the same application.

6 Development details

In addition to the site details contained in the attached Application form, the owner declares that the development can be described as (e.g.: single storey dwelling):

In addition to the site details contained in the attached Application form, the owner declares that 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:

Details of plans, specifications and other documents approved by 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):

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

Part 4A certificates issued

(Construction Certificate, Compliance Certificate, Subdivision Certificate, Occupation Certificate)

Type of Part 4A certificate issued:

Name of certifying authority:

Certificate no. / identifier:

Date of certificate (determination):

Details of plans, specifications and other documents the subject of any Part 4A certificate

7 Certifier's details

The details of the officers employed by Council as accredited Certifiers, any of whom may carry out certification work and inspections under this contract, can be found on the Building Professionals Board Website at <http://www.bpb.nsw.gov.au/page/engaging-a-certifier/find-a-certifier>

8 Fees and Charges

Council's [Schedule of Fees and Charges](#) can be obtained on request.

Download: <http://www3.shoalhaven.nsw.gov.au/feescharges/internetfees/>

Determination of Applications for Development Certificates

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.

These fees and charges must be paid to Council before, or at the time, the application for a development certificate is lodged with Council.

In the case of fees and charges payable for work arising from unforeseen contingencies, such as the assessment of alternative building solutions, these fees and charges will be calculated as specified in Council's Schedule of Fees and Charges.

Undertaking the functions of Principal Certifying Authority (PCA)

The applicant must pay the fees and charges for Council to carry out the functions of a PCA for the development as specified in Council's [Schedule of Fees and Charges](#).

These fees and charges must be paid to Council in full at the time of lodging the PCA appointment form (after the construction certificate or complying development certificate is issued) and before Council commences to carry out the functions of PCA.

In the case of fees and charges payable for work arising from unforeseen contingencies, such as additional inspections, these fees and charges will be calculated as specified in Council's Schedule of Fees and Charges.

9 Statutory Obligations

Clause 19A(5) of the Building Professionals Regulation 2007 states 'the contract must be accompanied by any applicable document containing information about the statutory obligations of accredited certifiers that is published by the Board for the purposes of this clause and available on its website'.

As at 16th August 2018, the Board has only published such a document for category E1 (swimming pool) certifiers who are authorised to carry out minor works to make safe swimming pool barriers.

For all other contracts for certification work, the Board has not published such a document.

Accredited certifiers have defined statutory obligations which are mainly set out in the *Environmental Planning and Assessment Act 1979*, the *Building Professionals Act 2005* and associated regulations.

Accredited certifiers have statutory obligations to:

- act within the terms and conditions of their accreditation
- comply with the [Code of conduct](#)
- undertake continuing professional development each year, and any additional training required by the Building Professionals Board
- hold professional indemnity insurance (unless they are an employee of a council and covered by the council's insurance)
- maintain complete, confidential and secure records
- avoid conflicts of interest.

Certifiers' statutory functions

Accredited certifiers are certifying authorities under the *Environmental Planning and Assessment Act 1979* and have statutory functions which include:

- determining an application for a complying development certificate within a set period
- confirming the builder for the development has the required licence, permits and insurance
- being satisfied that any preconditions required to be met before work starts or a certificate is issued, have been met
- conducting critical stage inspections and issuing certificates
- taking steps to address non-compliance, including reporting non-compliance to the appropriate authority.

The Building Professionals Regulation 2007 sets the functions and authority for each [category of accredited certifier](#).

Acting in the public interest

Accredited certifiers are public officials under the *Independent Commission Against Corruption Act 1988* and public authorities under the *Ombudsman Act 1974* and are subject to the requirements of these Acts.

Certifiers are also subject to (for example) the *Anti-Discrimination Act 1977* and the *Disability Discrimination Act 1992 (Commonwealth)*, and random audits by the Building Professionals Board.

Additional requirements for councils and council certifiers

In addition to the obligations of individual certifiers, councils must also:

- accept any application to act as the principal certifying authority — these includes when the Board approves the council as a replacement principal certifying authority for a particular development
- keep a record of the name and accreditation number of each certifier employed by the council, the start date of employment (and scheduled/ actual end date if known), and a brief description of each development they certified on behalf of council
- notify the Board when a certifier starts and ends employment with council

Certifiers who are engaged by a council on a contract basis must hold their own professional indemnity insurance. They are not covered by the council's insurance.

10 Execution of Contract

This contract is made on the date it is signed by Council:

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.

Individual Owner SIGNED by the owner in the presence of:

Witness signature:

Name of Witness:

Address of Witness:

Date:

Owners signature:

Date:

Authorised Officer SIGNED for and on behalf of the Shoalhaven City Council by its duly authorised officer in the presence of:

Witness signature:

Name of Witness:

Address of Witness:

Date:

Authorised Officer Signature:

Name of Authorised Officer:

Date:

Important information

Public Access to information

Pursuant to the *Government Information (Public Access) Act 2009* (GIPA Act) Council is required to make certain information publicly available, including by way of publication on public registers and on its website. Information submitted on and with this form may be made available to the public, unless there is an overriding public interest against disclosure of this information.

Privacy

The personal information that Council is collecting from you on submission of this form is personal information for the purposes of Section 10 of the *Privacy and Personal Information Protection Act 1998*. The intended recipients of the personal information are officers within the Council and third parties for the purpose of assessing the application as well as any person wishing to inspect the application in accordance with the *Local Government Act 1993* or the GIPA Act. The personal information may also be included on a public register and displayed on Council's website. The supply of personal information by you is voluntary. However, if you cannot provide or do not wish to provide the information required, Council will be unable to process your application. You may make application for access to, or amendment of, information held by Council. You may also make a request that Council suppress your

personal information from a public register. Council will consider any such application in accordance with the relevant legislation. Enquiries concerning this matter can be addressed to Council by telephoning (02) 4229 3111.

Lodgement details

You can lodge the completed application and contract by

Email: council@shoalhaven.nsw.gov.au or

In person: Council offices at Bridge Rd, Nowra or Deering St, Ulladulla.

Once your application is received, a Council Officer will contact you if further information is required.