

**Contact Details:**

Postal Address: PO Box 177, Macksville NSW 2447
Telephone: (02) 6568 2555

Office Location:

44 Princess Street, Macksville NSW 2447

Website: www.nambucca.nsw.gov.au

Email: council@nambucca.nsw.gov.au

Insurer: Statewide Mutual

Updated: July 2023 **Our Ref:** 6350/2020

APPOINTMENT OF COUNCIL AS PRINCIPAL CERTIFIER (PC) & CONTRACT FOR COUNCIL TO UNDERTAKE CERTIFICATION WORK

1 DEVELOPMENT DETAILS & DESCRIPTION

Unit/Street Number

Street Name

Suburb

State

Postcode

Lot Number

Section (if applicable)

DP / SP Number

Development Description

Development Consent Number (including complying development)

Construction Certificate Number

2 DISCLOSURE OF POLITICAL DONATION AND GIFTS

Has any person with a financial interest in this application made a donation or gift in the last two (2) years to a local councillor or council staff member?

☐ **No**

☐ **Yes** – If yes, submit a 'Disclosure of Reportable Political Donation' form

3 APPLICANT DETAILS

This agreement may be completed by the property owner or the person having the benefit of the development consent. However, the person having the benefit of a development consent does not include any contractor or other person who will carry out the building work unless the contractor or other person is the owner of the land on which the work is to be carried out

Full Name

Company Name

ABN (required if Co.)

Address

Telephone
(Mobile)

Business

Private

Email Address

Signature

Date

4 ACCREDITED CERTIFIERS

Kyle Bates – BDC 1231 Dan Wallace – BDC 04600 Daniel Walsh – BDC 3319 Mark Hutchinson – BDC 1330

Contract will be executed by Council on receipt of completed contract from land owner.

5 TERMS OF CONTRACT

1.0 Role of the Principal Certifying Authority (PCA) / Accredited Certifier

- The appointed PCA/Accredited Certifier is to assess and determine the issue of Construction Certificates, Complying Development Certificates and Occupation Certificates under the Environmental Planning and Assessment Act and the Building Code of Australia (BCA)/National Construction Code (NCC).
- The appointed PCA is to conduct mandatory critical stage progress inspections of certified development in accordance with the Environmental Planning and Assessment Act 1979, including the following:

Class 1 & 10 buildings - Single Dwellings, Carports, Garages, Sheds, Decks, Verandas, Swimming Pools

1. Footing inspection (after excavation for, and before the placement of, any footings)
2. Slab and other steel (before pouring any in-situ reinforced concrete building element)
3. Frames (before covering of the framework for any floor, wall, roof or other building element)
4. Wet area waterproofing (before covering waterproofing in any wet areas)
5. Stormwater (before covering any stormwater drainage connections)
6. Final inspection (after the building work has been completed and before occupation of the building)

Class 2, 3 or 4 buildings - Flats, Boarding Houses, Residential Parts of Hotels, Schools

1. Footing inspection (after the commencement of the excavation for, and before the placement of the first footing).
2. Wet area waterproofing (before covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building)
3. Stormwater (before covering any stormwater drainage connections)
4. Final inspection (after the building work has been completed and before occupation certificate of the building).

Class 5, 6, 7, 8 or 9 buildings - Office, Shop, Car Park, Hospital, School, Church, Theatres

1. Footing inspection (after the commencement of the excavation for, and before the placement of the first footing)
2. Stormwater (before covering any stormwater drainage connections)
3. Final inspection (after the building work has been completed and before occupation of the building)

Swimming Pools

1. As soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992) has been erected

Note: Additional water and sewer drainage inspections as follows are also required under Section 68 of the Local Government Act 1993 (LGA) due to Nambucca Valley Council being the Water and Sewer Authority:

- All sanitary plumbing and drainage (under slab, connection to Councils sewer and all associated trenches).
 - All potable water supply plumbing (under slab, connection to Councils water supply and all associated trenches).
 - Completion of all plumbing and drainage works (Certificate of Compliance and Sewer Service Diagram required).
 - Rainwater supply
- The appointed PCA/Accredited Certifier is to ensure the development has been carried out in accordance with any issued Development Consent/Complying Development Certificate/Construction Certificate and any relevant conditions contained therein.

- The scope of works covered by this contract is limited to building works described in the Construction Certificate or Complying Development Certificate.
- This agreement covers any subsequent modifications made to a development under the appropriate provisions of the Environmental Planning and Assessment Act 1979.
- Council's Certifiers may issue directive Notices/Orders under the Environmental Planning and Assessment Act 1979 upon a building owner(s) should any approval breaches occur.
- The appointed Council Certifiers will provide the appropriate PCA signage on site.

2.0 Owner(s) Responsibilities

- The owner(s) are to ensure no construction works have commenced until all necessary approvals are obtained and Council has been appointed as the PCA/Accredited Certifier for the development and a Construction Certificate or Complying Development Certificate has been issued.
- Owners are to ensure all development is carried out in accordance with the issued approvals, including any issued BASIX certificate and modifications to the development are not to be made without the necessary prior approvals being in place.
- The building or building part is not to be occupied until an Occupation Certificate has been issued by Council's Certifiers.
- The owner(s) is to ensure the required Home Builder's Compensation Fund (HBCF) insurance or Owner Builder permit are in place where required under the Home Building Act prior to any construction works commencing.
- The owner(s) is to ensure all tradespersons working on the development are appropriately qualified and licensed where required.
- The owner(s) is to ensure their Contracted Builders/Plumbers are made aware of the required inspections to be carried out as required under any issued Construction Certificate or Complying development Certificate or Section 68 LGA approval.
- The owner(s) is to advise Council in writing of any missed inspection as required by the PCA within two days of becoming aware of the missed inspection, detailing the circumstances as to why the inspection had been missed.
- The owner(s) is to notify Council of any changes to the Principal Building Contractor for a development and provide a copy of any required HBCF insurance prior to works proceeding further.
- Any required structural engineering details including footings, slab, pool steel, retaining wall, timber framing bracing/tie down construction, designed in accordance with the NCC/BCA and relevant Australian Standards are to be submitted to Council prior to the commencement of building works.
- The owner(s) are to familiarise themselves with any conditions of consent applied to a Development Consent or Complying Development Certificate prior to construction works commencing, where the owner(s) are to provide copies of the relevant consents to any Contracted Builder prior to works commencing.
- The development site is to be secured and remain in a safe and healthy condition during the construction phases and any required sedimentation erosion barriers are to remain in place throughout the construction to completion.

3.0 Inspections

- Council is to be given a minimum 48 hours' notice before each required inspection needs to be carried out. Council can be contacted on 02 65680246 or 02 6568 2555.
- Council's Certifiers are generally available for inspections between the hours of 8.30am – 4.30pm weekdays
- Access to the site is to be made available to enable Council's Certifiers to carry out inspections where required. If access is not available on arrival and the inspection cannot be carried out, additional inspection fees will apply to enable inspection at a later time.
- Council's Certifiers may direct certain matters to be rectified by the Contracted Builder or owner(s) where a re-inspection may be required prior to works proceeding further, additional inspection fees will apply.
- Council's Certifiers will notify the owner(s) regarding the result of each inspection via the preparation of an

electronically emailed inspection report.

- Council's Certifiers may require written third party certifications for various components of the building or development during construction, including however not limited to engineering certification for foundations/footings/slab construction or surveyor verification on required fill/floor levels.
- Council's Certifiers accept no responsibility for the inspection of building components that have been covered or hidden from view or where areas are not generally accessible.
- The inspection process only relates to those mandatory inspections as required under the Environmental Planning and Assessment Act 1979 and does not include all building components.
- Failure to carry out mandatory inspections may impact on Council's ability to issue an Occupation Certificate.

4.0 Occupation Certificates

- The Environmental Planning and Assessment Act 1979 requires an Occupation Certificate to be issued by the PCA prior to a building or part of a building being occupied, including an application for the "change of use" of a building.
- Council's Certifiers will issue an Occupation Certificate once all mandatory inspections are completed and the development (or relevant part) is completed in accordance with any issued Development Consent/Complying Development Certificate/Construction Certificate, is fit for occupation, and any conditions contained therein.
- Council's Certifiers may require written third party certifications for various components of the building or development to enable the issue of an Occupation Certificate.
- The issue of an Occupation Certificate may be withheld where breaches to an approval have occurred or where relevant HBCF insurances or Owner Builder permits have not been obtained, or required works have not been completed.

5.0 Certification Service Fees and Charges

- Council's certification fees are contained within Council's annual Fees and Charges available for viewing on Council's website. These fees are reviewed annually by Council following public exhibition.
- A written fee quote schedule for Council's Certification services relating to a particular development is provided by Council on request.
- All certification fees are to be paid at the lodgement of a Construction Certificate or Complying Development Certificate application with Council.
- Additional fees will be payable where re-inspections are required or where an inspection is requested five years after the signing of this contract. Fees will be payable in accordance with the adopted Fees and Charges when the additional payments are made.
- Fees are non-refundable after one year from payment.

6.0 Statutory Obligations of Accredited Certifiers

The statutory obligations of accredited certifiers are published on the NSW Fair Trading website found at the following link:

<https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers/certifier-responsibilities>

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.

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