

SECTION A – CERTIFIER

Name of the Certifier	AcroCert Pty Ltd	Corporate Registration No	RBC00005
Business & Postal Address for service of notices	308 High Street / PO Box 216, Maitland, NSW 2320		
Phone	(02) 4933 5626	Email	maitland@acrocert.com.au
Name of Insurer	Canopius Aust + Probitas1492 (Pacific) Pty Ltd		
Address	Level 35, 60 Margaret Street, Sydney, NSW 2000		
Policy Number	E25531BAA + FQ912X26A000		
Period of Insurance Cover	From: 31 July 2026	To: 31 July 2027	

SECTION B – THE CLIENT *Owner of the land or person / company listed on the DA*

Name(s)			
Address for service of notices			
Phone(s)		Email	

SECTION C – THE DEVELOPMENT

Description of Development	
Street Address	
Title Particulars (Lot & DP/SP)	

SECTION D – DEVELOPMENT CONSENT DETAILS *Tick appropriate box/s and complete*

Development Consent granted by consent authority	Development Consent given by the issue of a Complying Development Certificate (CDC)	Part 6 Certificate issues
☐ YES / ☐ NO	☐ YES / ☐ NO	☐ YES / ☐ NO
Name of Consent Authority	Name of Certifying Authority	Type of Certificate Issued under Part 6 of the <i>Environmental Planning and Assessment Act 1979</i>
Development Consent number	Complying Development number	Name of Certifying Authority
Date of Development Consent	Date of Complying Development	Certificate number & Date

SECTION E – DETAILS OF APPROVED DOCUMENTS

Details of plans, specifications and other documents approved by the Development Consent / CDC	Details of plans, specifications, and other documents the subject of any Part 6 Certificate
Details of any individuals who will undertake any inspections required to be carried out under <i>the Environmental Planning and Assessment Act 1979</i> (NSW) in connection with the certification work, including any applicable registration numbers are located at Annexure A.	

SECTION F – CERTIFICATION WORK Any certification work carried out, in accordance with Clause 28(b) of the *NSW Building and Development Certifiers Regulation (2020)* shall be conducted by an employee of the Certifier or a duly authorised registered certifier engaged by the Certifier.

Certifier	AcroCert Pty Ltd – the Certifier
Registration number	RBC00005 (Corporate Registration)
Registered Certifier and Registration Number	Refer to Annexure A to this Agreement

SECTION G – CERTIFICATION WORKS TO BE PERFORMED Tick one or more boxes as appropriate

☐	All Mandatory Critical Stage Inspections
☐	Determination of an application for a Complying Development Certificate
☐	Determination of an application for a Construction Certificate
☐	Undertaking functions of Certifier for the development
☐	Determination of an application for an Occupation Certificate

SECTION H – FEES & CHARGES Fees & charges for Services are set out below. See also clause 4, part 2 of this Agreement.

Contract Sum (including GST)	\$
Hourly rate (including GST)	\$

SECTION I – TERMINATION

Date of termination of this agreement	
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SECTION J – STATUTORY OBLIGATIONS 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). The applicable document is annexed to this Agreement as Annexure B.

SECTION K – SIGNATURES Signed/Executed by the owner/s of the land or person/company listed on the DA

Signature(s)	
Date	

By signing the above, the Client declares:

- a) the decision to appoint the certifier has been freely made by the Client and has not been made as a result of any coercion, inducement or influence from any third party;
- b) there exists no family, personal, employment, business or other relationship with the certifier in regard to the Services;
- c) the Client has read this Agreement and all accompanying documents to this Agreement; and
- d) the Client understands the roles and responsibilities of the Client and the certifier

Signed/executed by or on behalf of the Certifier (AcroCert Pty Ltd)

Signature		Date	
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SECTION L – DATE OF AGREEMENT Date this Agreement is made on

Date	
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1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

- (a) **The Act** means the Environmental Planning and Assessment Act 1979, as amended (NSW)
- (b) **AAC** means the Association of Accredited Certifier
- (c) **AIBS** means the New South Wales Chapter of the Australian Institute of Building Surveyors.
- (d) **Performance Solution** has the same meaning as the term in the Building Code of Australia.
- (e) **BCA** means the National Construction Code, Building Code of Australia including all applicable amendments.
- (f) **Building** includes a part of a building, and also includes any structure or part of a structure (including any temporary structure or part of a temporary structure), but does not include a manufactured home, moveable dwelling or associated structure within the meaning of the *Local Government Act 1993*.
- (g) **Building Contract** means the contract to construct the Building Works that the client enters into with the builder.
- (h) **Building Works** means any physical activity involved in the erection of a Building as defined in Part 6 of the Act.
- (i) **Business Day** means any day other than a Saturday, Sunday or public holiday in the state or territory in Australia in which the Site is situated in.
- (j) **Certificates** mean statutory certificates and non-statutory certificates.
- (k) **Certifier** means the Certifier under this Agreement, being Acrocert Pty Ltd and any employee of the Certifier or a duly authorised registered certifier engaged by the Certifier
- (l) **Claim** means any present or future, actual or contingent, claim, liability, right, remedy, entitlement, demand, proof of debt, cause of action, suit or proceeding for damages, debt, costs (including legal costs and expenses), restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy, whether by originating claim, cross claim or otherwise, whether arising at common law, in equity, under statute or otherwise, and whether or not known at the date of this Agreement.
- (m) **Client Documentation** means all relevant drawings, plans, statutory plans, and documentation associated with but not limited to Development Consents, Construction Certificates, Complying Development Certificates, Occupation Certificates, documents in relation to development consents under the Act including any certificate or related certificate issued under Part 6 of the Act.
- (n) **Code of Conduct** means the code of conduct contained in Schedule 5 of the Building and Development Certifiers Regulation 2020.
- (o) **Competent Person** means a contractor, tradesman or person who has the required licenses, qualifications, certifications and experience to undertake the works for which they were engaged to do.
- (p) **Compliance Declaration** means a design compliance declaration, principal compliance declaration or building compliance declaration, as defined in the *Design and Building Practitioners Act 2020* (NSW)
- (q) **Construction Approval** means the date of the relevant construction certificate or complying development certificate or modified versions of those documents.
- (r) **Contract Sum** means the sum provided in section H of Part 1 of this Agreement.
- (s) **Direction or Notice** includes any notice issued under this Agreement which must be in writing and served in accordance with clause 9 of this Agreement.
- (t) **Inspection Schedule** means the Inspection Schedule provided in the Notice of Inspections within the meaning of the Act.
- (u) **Law** means the applicable legislation, ordinances, resolution, by-laws, orders and awards where the Services are being carried out.
- (v) **Loss** means any liabilities, losses, damages, expenses, and costs (including legal costs on a full indemnity basis and whether incurred or awarded) of any kind or nature.
- (w) **Notice of Termination** means a written notice prepared in accordance with Clause 6.2 of this Agreement.
- (x) **Parties** means the parties to this Agreement.
- (y) **Part 1** means the document which forms part of this Agreement which is executed by the Parties.
- (z) **Practical Completion** means the date the builder has completed the Building Works in accordance with the Building Contract.
- (aa) **Services** means the services to be performed by the Certifier in accordance with this Agreement and as set out in Section G of Part 1 of this Agreement.
- (bb) **Site** means the property, development or structure situated at the address named in section C of Part 1 of this Agreement.
- (cc) **Termination Fee** means the money owing to the Certifier if the Certifier terminates this Agreement in accordance with Clause 6 of this Agreement, being fees for work done (with interest if applicable) and for cost incurred (with interest if applicable) and any money that the Client would have been bound to pay to the Certifier if the Services under this Agreement had been totally completed.
- (dd) **Variation** means any increase, decrease, amendment, or modification to Contract Sum or the Services deemed by the Certifier to be necessary.
- (ee) **WHS Legislation** means all law relating to work health and safety (including the Work Health and Safety Act 2011 (NSW), Work Health and Safety Regulation 2011 (NSW) and any code of practice approved under the WHS Act.
- (ff) **Written Direction Notice** means any notice issued in accordance with section 6.31 of the Act.

1.2 INTERPRETATION

In this Agreement, unless the context otherwise requires:

- (a) Words denoting any gender include all genders;
- (b) Headings are for convenience only and do not affect interpretation;
- (c) The singular includes the plural and vice versa;
- (d) Any schedule or annexure attached to the Agreement forms part of it;
- (e) A reference to a party includes its legal personal representatives, successor and permitted assigns;
- (f) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (g) A reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) An obligation or liability assumed by two or more persons binds them jointly and separately;
- (i) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it;
- (j) Unless expressly stated to be otherwise, the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar inclusive expressions; and
- (k) a reference to this document means this document and includes any variation or replacement of this document.

2. OBLIGATIONS OF THE CERTIFIER

- 2.1 This section applies to the issuing of Construction Certificates, Complying Development Certificates and Occupation Certificates.
 - 2.2 The Certifier shall issue a Construction Certificate or Complying Development Certificate:
 - (a) Once the Client pays the Certifier any money owed for work associated with the issuing of a Construction Certificate or Complying Development Certificate or in accordance with the requirements under Clause 4 of this Agreement; and
 - (b) When the Certifier is satisfied the design and construction of the Building Works comply with the relevant Development Consent, Law, BCA and any prescribed complying development criteria by either the State Government or Local Council.
 - 2.3 The Certifier shall provide the relevant Consent Authority and/or Local Council with a Notice of Determination within 7 days of the determination.
 - 2.4 When the Certifier issues a Construction Certificate, Complying Development Certificate or Occupation Certificate, the Certifier may issue additional certificates or statements from any other Certifier or any other party as the Certifier considers necessary in the circumstances.
 - 2.5 The Certifier may carry out as many inspections as the Certifier considers necessary in addition to any mandatory critical stage inspection inclusive of inspections required as a result of a complaint regarding non-compliance with any aspect of the development and as may be associated with the service of a Written Direction Notice.
 - 2.6 The Certifier shall issue an Occupation Certificate for the Building when the Certifier is satisfied that:
 - (a) The Development Consent has been complied with, including any preconditions to the issue of an Occupation Certificate or a Complying Development Certificate in force for the Building and any applicable Laws; and
 - (b) The Building is suitable for occupation or use in accordance with their classification under the BCA; and
 - (c) The Building or parts do not pose any danger for the occupants in the case of a partial Occupation Certificate or an Occupation Certificate for part of a building; and
 - (d) The Client has paid the Certifier any money owed for work associated with the issuing of an Occupation Certificate in accordance with the requirements under Clause 4 of this Agreement.
 - 2.7 The Certifier shall maintain an insurance policy in accordance with the Act and shall provide a copy of that policy to the client upon request.
 - 2.8 The Certifier will at all times comply with the Code of Conduct.
- ### 3. OBLIGATIONS OF THE CLIENT
- 3.1 The Client must:
 - (a) Not engage any other certifier or Certifier after the Certifier appointed pursuant to this Agreement has been engaged. Breach of this condition will entitle the Certifier to terminate this Agreement pursuant to Clause 6 of this Agreement, and recover any losses or costs of whatsoever nature that flow from such breach, including the Termination Fee.
 - (b) Provide the Certifier safe access to the Site as and when the Certifier requires to enable the Certifier to perform the Services.
 - (c) Notify the Certifier of any changes to access as soon as the Client becomes aware of said changes.
 - (d) Use Competent People for all aspects of the Building Works.
 - (e) Provide the Certifier with evidence of Home Building Compensation Fund or Owner Builder Permit (if applicable) not less than 48 hours prior to the commencement of the Building Works.
 - (f) Provide all Client Documentation at the request of the Certifier and warrants that all Client Documentation is correct.
 - (g) Attend any meetings if required by the Certifier to do so.
 - (h) Comply with any Written Direction Notice that the Certifier issues.
 - (i) Provide Compliance Certificates, Compliance Declarations and any other document or information as may be requested by the Certifier.
 - (j) Provide all information that the client reasonably can obtain to enable the Certifier to fulfil its contractual and legislative obligations.
 - (k) Act in good faith, in accordance with the Act and in a cooperative fashion.
 - (l) Notify the Certifier of anything which the Client is aware of or becomes aware of which could affect the Certifier's performance of the Services.
 - (m) Co-ordinate other contractors which may be on Site so as not to impede the Certifier's ability to carry out the Service.
 - (n) Comply with WHS Legislation.
 - (o) Not do anything which may cause the Certifier to breach the Code of Conduct.
- ### 4. PAYMENT OF FEES AND CHARGES
- 4.1 The Contract Sum for the provision of Services are specified in section H of Part 1 of this Agreement.
 - 4.2 If the Service involves the determination of an application for a development certificate, the Client must pay the fees and charges in relation to the determination on or before the lodgement of the application. This excludes any fees and charges for works arising as a result of unforeseen contingencies.
 - 4.3 If the Service involves the carrying out of functions as a Certifier, the Client must pay the fees and charges payable in respect of the Site before the Services are carried out in relation to the Site. This excludes any fees and charges for works arising as a result of unforeseen contingencies.
 - 4.4 The Client must pay the cost of any inspections required under Clause 2.5 of this Agreement. Invoices for the works contemplated in Clause 2.5 will be issued to the Client in accordance with Clauses 4.6 and 4.7 of this Agreement.
 - 4.5 The Client acknowledges that the Certifier may be required to carry out works arising from unforeseen contingencies which fall outside of the scope of the Services.
 - 4.6 Fees and charges arising from unforeseen contingencies will be calculated at the hourly rate provided in section H of Part 1 of this Agreement.
 - 4.7 The Certifier must issue invoices to the Client for the works contemplated at 4.5 of this Agreement within 21 days of completion of that work.
 - 4.8 The Client agrees to make payment to the Certifiers for invoices issued in accordance with Clause 4.7 of this Agreement within 14 days of the date of the invoice.
 - 4.9 The Client acknowledges that any unpaid invoices will incur interest in accordance with the Cash Rate Target set by the Reserve Bank of Australia plus 2% which starts accruing 14 days after the date of the invoice.
- ### 5. CONTRACTUAL VARIATIONS
- 5.1 The Certifier will be entitled to a Variation if:
 - (a) the Building Works do not commence within 60 days from the date of execution of this Agreement;
 - (b) Any Competent Person used by the Client in respect of the Building Works causes a delay in the progress of the Building Works for more than 21 days;
 - (c) Any part of the Building Works is re-designed by the Client or the client's representative;
 - (d) Any part of the Building is designed pursuant to a Deemed to Satisfy Provision and is subsequently changed by way of a Performance Solution;
 - (e) More Certificates and / or modified Certificates are required to be issued Certifier than originally contemplated when this Agreement was entered;
 - (f) An amendment to any statutory legislation that requires any aspect of the Building Works or the Certifier's work to be varied;
 - (g) The Certifier is required to undertake more inspections than those listed in an Inspection Schedule;
 - (h) The Client does anything that causes a delay to the Building Works or does anything that delays the ability of

the Certifier to carry out its obligations under this Agreement;

- (i) Any Written Direction Notice is issued by the Certifier; or
- (j) Any other circumstance arises which would reasonably entitle the Certifier to a Variation.

5.2 In respect of a Variation, the Certifier may:

- (a) Vary this Agreement to the extent that the Certifier will be able to carry out its contractual obligations; and
- (b) Increase the Agreement price with such increase to be made by way of Notice to the Client stating the reason/s for the increase and the amount of the increase.

5.3 The variation will permit the Certifier to claim all costs associated with that delay as reasonably determined by the Certifier.

5.4 When the Certifier determines a Variation is required in accordance with Clause 5.1 of this Agreement, the Certifier must:

- (a) Where possible, at least 5 Business Days prior to the Certifier being required to perform work in relation to the Variation, the Certifier must provide a Notice specifying the reason for the Variation and the works required as a result of the Variation.

5.5 The Certifier will issue invoices for Variations in accordance with Clause 4.7 of this Agreement.

5.6 The Client must pay invoices for Variations in accordance with Clause 4.8 and 4.9 of this Agreement.

6. CONTRACTUAL TERMINATION

6.1 The Certifier can terminate this Agreement if:

- (b) The Client fails to pay any money owing to the Certifier after 7 days of that money becoming payable;
- (c) The Client becomes insolvent, makes an assignment to the benefit of creditors, or has a petition in bankruptcy filed for or against it;
- (d) The Certifier deems that a Construction Certificate or Complying Development Certificate is not capable of being issued within 180 days or 6 months (whichever is the lesser) from the date of execution of this Agreement;
- (e) The Building Works do not commence within 60 days from the date a Construction Certificate or Complying Development Certificate was issued;
- (f) The Client does not permit the Certifier to issue an Occupation Certificate within 60 days from the date of Practical Completion;
- (g) An Occupation Certificate is not issued within 24 months of the Construction Approval;
- (h) The Building Works have commenced without the issuing of a Construction Certificate or Complying Development Certificate;
- (i) The Building Works do not comply with the Client Documentation;
- (j) The Client does not comply with a Written Direction Notice; or
- (k) The Client is otherwise in breach of this Agreement.

6.2 If an event in Clause 6.1 arises, the Certifier may terminate the Agreement by serving a written Notice of Termination to the Client's address specified in Section B of Part 1 of the Agreement.

6.3 Notwithstanding any other provision contained herein, this Agreement shall terminate two years and 6 months after the date of the Construction Approval.

6.4 If the Certifier terminates the Agreement, then the Certifier is entitled to payment of the Termination Fee. In this event, the Certifier will issue an invoice to the Client for the Termination Fee and the Client agrees to make payment to the Certifier for Termination Fee within 14 days of the date of the invoice.

6.5 If the Certifier terminates the Agreement, the Certifier is entitled to carry out a final inspection, at the Client's expense, prior to termination.

6.6 If the Certifier commits a substantial breach of a material term, the Client may give notice to the Certifier to remedy that breach within 30 days. If the Certifier fails to remedy the breach, the Client may terminate this Agreement by serving a written Notice of Termination to the address specified in Section A of Part 1 of this Agreement, which will incur a \$110 (GST incl)

administrative cancellation fee in addition to any other outstanding fees at the date of termination.

6.7 In the event a Notice of Termination is served pursuant to Clauses 6.2 or 6.5 of this Agreement the recipient of the Notice of Termination will have 5 Business Days to dispute the Notice of Termination in accordance with the dispute resolution process in Clause 7 of this Agreement.

6.8 If the recipient of the Notice of Termination does not dispute the Notice of Termination within 5 Business Days, the Agreement will be considered terminated after this period.

6.9 This Agreement may be terminated by the agreement of both parties in writing. In this event, the Certifier may charge a \$110 administration fee in addition to any other outstanding fees at the date of termination. At the Certifier's sole discretion, the Certifier may render a refund for any work not done.

7. DISPUTE RESOLUTION

7.1 If a dispute arises between the Parties in connection with this Agreement (**Dispute**), then that Dispute must be dealt with in accordance with this Clause 7.

7.2 A Party at any time may issue a notice to the other Party of a Dispute concerning any matter relating to or arising out of this Agreement and require that it be resolved in accordance with this Clause 7. A notice given pursuant to this Clause must:

- (a) Identify the subject matter of the Dispute;
- (b) Set out in detail the facts upon which the Dispute is based;
- (c) Identify the provisions of this Agreement which are relevant to the Dispute;
- (d) Nominate the person who will have authority to settle the Dispute;
- (e) Have annexed to it copies of all correspondence and background information relevant to the Dispute;
- (f) Contain particulars of the quantification of the Dispute.

7.3 The Parties nominated persons in Clause 7.2(d) must meet within 10 Business Days of receipt of the Notice of Dispute and attempt to resolve the Dispute in good faith.

7.4 If the Dispute cannot be resolved in accordance with Clause 7.3 of this Agreement, the Parties must proceed to mediation of the Dispute within 10 Business Days of the failed meeting referred to in Clause 7.3.

7.5 The mediator must be appointed by the AIBS or the AAC.

7.6 Both parties will remunerate the mediator on a 50/50% basis, regardless of any alleged fault and regardless of the outcome.

7.7 The mediator may request mediation funds to be placed into a trust account before the mediation commences and may request payment of additional moneys from time to time until the mediation is concluded.

7.8 Both Parties must attend the mediation and must co-operate with the mediator and each other and shall give the mediator whatever the mediator requests.

7.9 If the mediator resolves the dispute, the resolution must be evidenced by a written agreement that is signed by the mediator and the parties.

7.10 If the mediation fails, then either party may take action to resolve the dispute in a court of competent jurisdiction.

7.11 This Dispute resolution process must be adhered to prior to either Party commencing legal action and will survive termination, completion or expiration of this Agreement.

8. OCCUPATION CERTIFICATES

8.1 An Occupation Certificate must be applied for, and issued, within 24 months of the date of the Construction Approval. Failure to comply with this requirement shall entitle the Certifier to terminate the contract, and to charge additional fees in order to finalise the project including, but not limited to, for any additional liability and inspections, including the Final inspection and issue of any Occupation Certificate.

8.2 If, for whatever reason, an Occupation Certificate is not issued whether it be on account of the insolvency of the Client, the disappearance of the Client, the termination of the Agreement or otherwise, the Certifier's responsibilities under the Agreement cease forthwith.

9. ADDRESS FOR NOTICES

9.1 Where any Direction, Notice or Written Direction Notice is to be served, the address for service shall be the address stated in

Part 1 of this Agreement or to any other address that is notified in writing to the other Party.

10. LIABILITIES AND INDEMNITIES

- 10.1 Liability limited by a scheme approved under Professional Standards legislation
- 10.2 As at the date of the final inspection contemplated in Clause 6.9 of this Agreement, the Client must indemnify the Certifier for any liabilities, including but not limited to professional liability and public liability, of whatsoever nature that emanates from:
- (a) The need to terminate this Agreement.
 - (b) Any matters of non compliance with the Act on the part of the Client or any other contractors.
- 10.3 The Client has no Claim against the Certifier in relation to or in connection with any risks, Losses, and delays suffered or incurred by the Client as a result of the Client Documentation not being accurate, including where that inaccuracy results in some defect or non-compliance in the Services.
- 10.4 The Client indemnifies the Certifier in relation to any Claim or Loss which may result from the Client's failure to comply with Clause 3.
- 10.5 The Client is liable for and indemnifies the Certifier from and against any Claim and/or Loss (including any legal costs on a full indemnity basis) which arise out of or in connection with the Services including from or in connection with or in respect of:
- (a) Personal injury or the death of any person;
 - (b) Loss of, damage to, or loss of use of any property, including property of the Certifier;
 - (c) Potential or actual harm to the environment and/or pollution causing or threatening any harm to the environment; and
 - (d) Any breach of this Agreement by the Client or any omission or negligent act of the Client;
- 10.6 The provisions in Clause 10 survive termination, completion, or expiration of this Agreement.

11. ENTIRE AGREEMENT

- 11.1 This Agreement is the entire agreement between the Parties for the Services and supersedes all previous agreements, proposals, representations, correspondence and discussions in connection with the Services.
- 11.2 The Parties agree that no term or condition of this Agreement can be varied, waved, discharged or released either at law or in equity without the prior written consent of the other Party in each instance.
- 11.3 Notwithstanding Clause 11.2, the Client acknowledges that:
- (a) The insurance policy listed at Section A Part 1 of this Agreement will be updated on an annual basis; and
 - (b) The registered certifiers listed in Annexure A may change from time to time.

12. ASSIGNMENT, NOVATION AND SUB-CONTRACTING OF THE SERVICES

The Client must not assign or sub-contract this Agreement or any part thereof without the prior written approval of the Certifier and then only on terms satisfactory to the Certifier. The Client acknowledges that this Agreement binds the Client's successors, permitted assigns and personal representatives.

Please see below for the details of the individuals (employees of AcroCert) who will carry out the certification work under the contract and undertake any inspections required to be carried out under the Environmental Planning and Assessment Act 1979 (NSW) in connection with the certification work.

NAME	CERTIFICATION NO.
Brenden Lantry	BDC0220
Scott McGufficke	BDC0258
Josh McGufficke	BDC2037
Troy Turner	BDC2267
JT Treadwell	BDC3216
Wesley Lantry	BDC04875
Anthony Currie	BDC05084
Jordan Cooke	BDC05293
Luke Harland	BDC05329
Sarah Saunders	BDC05335
Joel Denniss	BDC05533

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'