

## CONTRACT FOR APPOINTMENT AS PRINCIPAL CERTIFIER OR CERTIFICATION WORK

This contract meets the requirements of section 31(2) of the *Building and Development Certifiers Act 2018* and Part 5 of the *Building and Development Certifiers Regulation 2020* which stipulates a contracted must be entered into prior to works being undertaken.

This is a contract between the Applicant and Yass Valley Council (Council), where Council is being engaged to undertake certification works including:

- The assessment of a Construction Certificate Application or
- The assessment of a Complying Development Certificate Application or
- Appointment as the Principal Certifier (PC)

Council will only start the certification work upon receipt of the completed and signed contract and payment of the relevant fees and charges.

### Part A. Details of Applicant

Note: Only the person/company having the benefit of the development consent or complying development certificate may appoint the PC. 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.

Name			
Company/Organisation			
<i>If completed on behalf of a company evidence which confirms the person signing the form is legally entitled to do so must accompany this application.</i>			
Postal Address			
Telephone No.			
Email			

### Part B. Location and title details of the development

Street no.		Street name		
Suburb or town			Postcode	
Lot no.		Section		DP / SP no.

### Part C. Description of the Development

Description of the development as detailed on the relevant Approval

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### Part D. Approval Details

*If not available at the time of lodgement of the application, the following information will be inserted by Council on determination of consent or certificate.*

DA No.		Date of Determination		
CC No.		Date of Determination		Registration No.
CDC No.		Date of Determination		Registration No.
Related plans, specifications or other documents for consent or certificate			As referred to in the relevant development consent, construction certificate or complying development consent (as applicable).	

### Part E. Registered Certifier

Name:	Yass Valley Council
Address:	209 Comur Street YASS NSW 2582
Email:	council@yass.nsw.gov.au
Telephone No.:	02 6226 1477

When entering into this contact please take note that Council will ensure that only registered certifiers undertake certification work on your development. The officers listed below are currently employed by Council as registered certifiers. Council may also engage temporary resources to undertake certification works when required. It is also important to note that Council has a traineeship program and that individuals may undertake supervised works over the course of your development.

Brent Skaines	Registration No. BDC2673
John Guiney	Registration No. BDC1968
John Mannweiler	Registration No. BDC1413
Vinh Ngo	Registration No. BDC3423

### Part F. Appointment of PC and Certification Work

You engage Council to carry out the following certification work in relation to the development:

- The determination of an application for a **complying development certificate** under Part 7 of the of the *Environmental Planning & Assessment Regulation 2000*
- The determination of an application for a **construction certificate** under Part 8 of the of the *Environmental Planning & Assessment Regulation 2000*
- The appointment as **Principal Certifier (PC)** and the determination of an application for an **occupation certificate** under Part 8 of the of the *Environmental Planning & Assessment Regulation 2000*

When engaging Council to determine a certification application you agree to provide the relevant information identified in *Schedule 1 Environmental Planning and Assessment Regulation 2000* and acknowledge that if this information is not provided within a timely manner your application may be determined by way of refusal.

Council will undertake the certification work in a professional manner and in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

### Part G. Critical Stage and Other Inspections

Council, if appointed as PC, will carry out the critical stage inspections and the other inspections in relation to the development.

The following is a list of the critical stage inspections for each building class. Council will confirm the complete schedule of inspections on the issue of a construction certificate or complying development certificate.

#### Class 1 & 10 buildings - Single Dwellings, Carports, Garages, Sheds, 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 certificate of the building).

### **Swimming Pools and Spas**

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

### **Other inspections**

1. Any other inspections identified within the development consent
2. Any other inspection identified during the construction certificate assessment (as listed in the appendix of the construction certificate)

### **Part H. Notice of Inspections**

You are responsible for making suitable arrangements with Council to carry out the critical stage inspections or other inspections. Inspections must be booked at least 48 hours in advance (excluding weekends and public holidays) and can be made using our online booking system. Access to the booking system and information about Inspections is available on Council's website - <https://www.yassvalley.nsw.gov.au/our-services/planning-and-building/certification-and-inspections/inspections/>

At the time of booking the inspection, Council will issue you a booking receipt number as confirmation of the inspection. Council does not book in specific inspection times however we will endeavour to contact you with an estimated arrival time, the day before the inspection booking.

To be eligible for a full refund inspection bookings must be cancelled by **7:30 AM** on the day of the inspection using Council's inspection booking system. Where inspections are not cancelled by this time Council reserves the right to either issue a partial refund or no refund at all.

You can contact Council by phone or email to book or cancel your inspection. This service will incur a separate administration charge.

### **Part I. Outcome of Inspections**

Council will give you confirmation of the outcome of an inspection as soon as practicable after the inspection has been completed. Council will indicate if the inspection was satisfactory or if additional works must be completed before re-inspection.

You must not proceed with works until you have confirmation that the inspection is satisfactory. If in doubt do not proceed and contact Council. If your inspection is unsatisfactory you will need to address the concerns raised and book another inspection.

You must obtain a satisfactory inspection result from Council for each relevant stage of construction, before you can proceed to the next stage of construction.

### **Part J. Missed Inspections**

If a critical stage inspection or other inspection has been unavoidably missed, you must within two (2) days of becoming aware that the inspection has been missed, advise Council in writing as to the circumstances causing the inspection to be missed and must give to Council all documentation requested by Council about the unavoidably missed inspection.

If you fail to notify Council of the critical stage inspections or other inspections, you may prejudice or even prevent Council from issuing of an occupation certificate in respect to the development.

### **Part K. Structural Engineering and Other Specialist Details**

If requested (either before commencement or during the building works), you must forward to Council any structural or other specialist engineering details relating to the development. These details must confirm compliance with the relevant provisions of the National Construction Code Building Code of Australia and/or relevant standards to the satisfaction of Council.

### **Part L. Third Party Certification Works**

To ensure compliance with the development consent, construction certificate or complying development certificate (as applicable), you may be required to submit third party certification from a suitably qualified person in a specific field to Council (eg: structural engineer), demonstrating a specific matter complies with a relevant standard.

Council will advise when this is required as part of an inspection result.

The certification must be prepared by a registered certifier or other suitably qualified and experienced person and must reference the relevant provisions of the Building Code of Australia, Australian Standards, development consent, construction certificate or complying development certificate approved plans.

The certification is in addition to the critical stage inspections or other inspections listed above.

### **Part M. Compliance with Consent or Certificate**

You confirm that no building works in relation the development have started before the appointment of Council as PC.

You must ensure that all works are carried out in accordance with the conditions of any development consent, construction certificate or complying development certificate (as applicable), the relevant provisions of the Building Code of Australia and the EP&A Act.

You must obtain Council's approval for any amendments or variations to the development, before you start any work relating to the amendment or variation.

If you do not complete the works in accordance with the development consent, construction certificate or complying developing certificate, Council may refuse to issue an occupation certificate. Council may also serve a notice and order for you to comply with the relevant consent, or may institute legal proceedings.

#### **Part N. Occupation Certificate**

You must obtain an occupation certificate before the occupation or use of a new building (or part of a building) or following the change of an existing building use/classification. Penalties apply under the EP&A Act for use or occupation of a building without a validly issued occupation certificate.

Council will not accept responsibility for any damage or cost associated with its ability to issue an occupation certificate due to (but not limited to) the following:

- (a) Non-compliance with a condition of development consent
- (b) Unsatisfactory final inspection
- (c) Non-compliance with BASIX commitments
- (d) Missed critical stage inspections or other inspections
- (e) Non-compliance with development consent or construction certificate approved plans or documentation
- (f) Failure to pay the required inspection or occupation certificate fee

#### **Part O. Fees and Charges**

##### **Certification work**

The fees for Council's appointment as PC and certification work are reviewed annually and published on its website ([www.yassvalley.nsw.gov.au](http://www.yassvalley.nsw.gov.au)). The fees are inclusive of GST. The fee payable will be at the published rate applicable at the time of requesting the service. Services which attached fees are as follows:

- (a) Complying Development Certificate Assessment
- (b) Complying Development Certificate Determination
- (c) Construction Certificate Application
- (d) Appointment of Principal Certifier
- (e) Inspection fee - Charged per inspection
- (f) Occupation Certificate Application

##### **Unforeseen contingencies**

Council may charge you additional fees in the following circumstances:

- (a) Additional meetings – on site or otherwise.
- (b) Administration fee – Inspection booking fee where staff are requested to book the inspection over the phone

The fees for unforeseen contingencies are based on Council's annual fees and charges, which are published on its website ([www.yassvalley.nsw.gov.au](http://www.yassvalley.nsw.gov.au)).

*Please note that other government levys and or developer contributions may apply to your development.*

#### **Part P. Payment**

##### **Determination of an application for a development certificate**

If the certification work relates to the issue of a:

- (a) Complying development certificate
- (b) Compliance certificate
- (c) Construction certificate
- (d) Occupation certificate

You must pay the fees and charges on or before the lodgement of the application for that certificate, excluding any fees and charges for work arising as a result of unforeseen contingencies.

##### **Appointment as PC**

If the certification work relates to the functions of a PC, you must pay the fees and charges before Council commences those functions, excluding any fees and charges for work arising as a result of unforeseen contingencies.

##### **Unforeseen contingencies**

If Council carries out work as a result of unforeseen contingencies, Council will:

- (i) calculate the fees based on its annual fees and charges; and
- (ii) give you an invoice within 21 days after the completion of that work.

You must pay any fees and charges for unforeseen contingencies within the invoice terms.

#### **Unpaid fees**

In circumstances where Council is appointed as PC, and the fees are not paid in accordance with this contract, you acknowledge and accept liability for all or any unpaid fees and any associated debt recovery costs plus interest incurred from the time of appointment.

You acknowledge and accept that Council, as PC, may suspend services where fees have not been paid, or remain outstanding.

#### **Part Q. Applicant's Signature**

Note: Only the person/company having the benefit of the development consent or complying development certificate may appoint the PC. 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.

I accept the terms and conditions of this contract including the associated payment of fees and:

- a. I have freely chosen to engage Yass Valley Council as the certifier.
- b. I have read the contract and accompanying document and I understand my responsibilities and those of the certifier.

Signature	
Date	

#### **Part R. Council's Signature**

Signed for and behalf of Council by an authorised officer:

Officer's name	
Signature	
Date	

#### **Part S. Council's Insurance**

Council will maintain the following insurance during the contract:

Name of Insurer:	STATEWIDE MUTUAL LIABILITY SCHEME
Policy Numbers:	000745
Period of Insurance:	30/06/2020 - 30/06/2021

#### **Part T. Statutory Obligations of Registered Certifiers – Building Surveyors and Building Inspectors**

The contract must attach any document containing information about the statutory obligations of registered certifiers that is published by Fair Trading NSW for the purpose of clause 31 and available on its website.

## 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 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>2</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> 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.