



Bogan Shire Council
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APPOINTMENT OF BOGAN SHIRE COUNCIL AS THE PRINCIPAL CERTIFYING AUTHORITY

(Section 109E, *Environmental Planning & Assessment Act 1979*)

The personal information collected on this form is personal information for the purposes of the *Privacy and Personal Information Protection Act 1998* (PIIP Act). The supply of the information by you is not voluntary but is required by the *Environmental Planning & Assessment Act 1979*, and in accordance with such Act, is required to be contained in a Public Register to which the public has right of access. This personal information may be supplied under certain circumstances to other public sector agencies in accordance with the PIIP Act. Enquiries may be directed to Council's Public Officer concerning Council's Privacy Management Plan or your right of access to your personal information as held by Council or its amendment.

I, _____
(Applicant's Full Name - please print)

being the Applicant, authorise and appoint Bogan Shire Council as the **Principal Certifying Authority** for the following development (erection of building) pursuant to s109E of the EP&A Act 1979:

(Proposed building works)

at _____
(Property description and location)

This Appointment is made in relation to the following approvals:-

Development Consent or Complying Development Certificate No.: D /
Construction Certificate No.: C /

For the purposes of this Notice of Appointment:

- **Principal Certifying Authority:** means Bogan Shire Council including its officers and staff or other employees authorised to act on its behalf.
- **Applicant:** means the person entitled to act upon the development consent or complying development certificate to which the subject building works relate.
- **Agent:** means the builder, clerk of works, supervisor, contractor or other persons engaged by the Applicant to undertake the construction of the subject building work for or on behalf of the Applicant, whether in part or as a whole.

The **Applicant** acknowledges and accepts that as a requirement of its appointment, the **Principal Certifying Authority** has specified the following conditions to which the **Applicant** and his/her agents must comply.

Conditions of Appointment:-

- The **Applicant** is to ensure its **agent** erects upon the subject building site, the required building contractor's sign as specified under the *Environmental Planning & Assessment Regulation 2000*, prior to building work commencing. Such sign shall include the Council's name (Bogan Shire Council) as the appointed **Principal Certifying Authority** for the work and the following telephone number as its contact number- 6835 9000.
- A number of inspections, which are listed below, are required to be undertaken by the **Principal Certifying Authority** for the purposes of the **Principal Certifying Authority** satisfying itself that during specific stages of the development's construction the nominated work is being erected in accordance with its Construction Certificate/Complying Development Certificate. The **Applicant** agrees that he/she or its **agent** will give not less than twenty-four (24) hours prior notice for each nominated inspection, and that the subject works will not be covered until the inspection has been performed and the work passed by the **Principal Certifying Authority**.

INSPECTIONS REQUIRED:

1. Site inspection prior to commencement of building work.
 2. Strip footings/ blob footings/ pier holes with reinforcement in position.
 3. Floor slab with reinforcement in position.
 4. Frame before erection of cladding/wall linings/ceiling linings.
 5. Waterproofing to wet areas.
 6. Final upon building reaching completion stage prior to occupation/use.
 7. Water plumbing (undertaken by Council as the Water Regulatory Authority).
 8. Internal and external sanitary plumbing & drainage (undertaken by Council as the Sewerage Regulatory Authority).
- The **Applicant** accepts the responsibility to ensure that its **agents** are made aware of the necessity for the inspections to be carried out prior to covering, and where the inspections find that the project has deficiencies, that all necessary steps will be taken to ensure that the alterations required are undertaken to allow the project to continue.
 - The **Applicant** will ensure that access to the site is not inhibited in any way to the **Principal Certifying Authority** for the purposes of undertaking the nominated inspections and any subsequent re-inspections arising from them.
 - The **Applicant** and its agent will obtain any other necessary concurrence or approval required by Telstra, Advance Energy, AGL, Council or other relevant service/regulatory authority; and where the development comprises residential building work, to provide to the **Principal Certifying Authority** evidence that the **Applicant's** builder is licensed and insured, or an owner-builder permit has been obtained, prior to commencement of the work.
 - Where directed by the **Principal Certifying Authority** that remedial work is required, such remedial work will be performed and the **Principal Certifying Authority** notified upon completion of the rectification work. Where a reinspection is required by the **Principal Certifying Authority** to ascertain such rectification works have been adequately performed, the **Applicant** agrees that a further fee may be imposed for each subsequent inspection, to be paid prior to the inspection being carried out or prior to issue of the occupation certificate.
 - Where an alteration or amendment is proposed to the project, the alteration/amendment will be discussed with the **Principal Certifying Authority** prior to inclusion. The **Applicant** accepts that the **Principal Certifying Authority** may refuse consent to the alteration and may require the submission of a further Construction Certificate or amendment to the existing Construction Certificate.
 - The **Applicant** agrees that in the case where the development constitutes building works, the building will not be occupied prior to the issue of an Occupation Certificate by the **Principal Certifying Authority**. The **Applicant** accepts full responsibility for any action required to obtain an Occupation Certificate and will take all reasonable steps to ensure that the appropriate inspections, fire safety certificates and conditions of development consent/complying development certificate are conducted, obtained and complied with to allow issue of the occupation certificate.

Where an inspection finds areas of non-compliance with the provisions of the Building Code of Australia, Development Consent or Complying Development Certificate, Construction Certificate or other relevant standard, the **Principal Certifying Authority** will notify the **Applicant** or its **agent** of the findings of the inspection to permit rectification.

The **Applicant** agrees to the conditions of this Notice of Appointment and will undertake to have the project completed in accordance with all the necessary standards and regulations including its Development Consent and Construction Certificate or Complying Development Certificate.

This Appointment takes effect upon the **Applicant** making his/her signature below.

(Applicant's Signature)

(Date)

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.