



## NOTICE OF APPOINTMENT OF PRINCIPAL CERTIFIER (PC) AND SERVICE AGREEMENT

Under the Environmental Planning and Assessment Act, 1979 Division 6.3  
This application is a contract for certification work in accordance with Section 31 of the Building and Development Certifiers Act 2018 (NSW)  
**Appointment and Service Agreement is attached**

Property Key: Office Use Only

Date Received:

### YOUR INFORMATION AND PRIVACY

Please note the information that you provide on this form is used by Council to process your application and can be available to other government agencies.

The *Government Information (Public Access) Act 2009* requires Council to make publicly available details of applications for approvals. However, in accordance with the *Privacy and Personal Information Protection Act 1998*, Council will seek to limit the availability of your personal information to third parties.

The Service Agreement must be completed to appoint Liverpool City Council (LCC) as the Principal Certifier (PC). This is in accordance with Sections 4.19 and Part 6 of the Environmental Planning and Assessment Act, 1979, to carry out Construction Inspections of the Building Works and to issue the required Occupation Certificate.

This form is not to be used where replacement of the PC is being considered. For further information please refer to the NSW Fair Trading website [www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers](http://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers)

### Address details of development

Shop/Unit No:	House No:	Street:
Suburb:		Postcode:
Lot No:	Deposited / Strata Plan No:	Section:

### Details of Development Consent / Construction Certificate / Complying Development Certificate

Development Application (DA) Number:	Determination Date:
Construction /Complying Dev Certificate (CCB/CD) No:	Determination Date:
Description of Building Work (as per description of work on the CCB/CD Certificate):	

### Applicant (Appointer's) details

NOTE: Any builder, contractor or other person who will carry out the work cannot appoint the Principal Certifier unless that person is the owner of the land. Only the owner or person having the benefit of the Development Consent or Complying Development Certificate can appoint a Principal Certifier.

Family Name(s)/Surname(s) (or company & ACN):		
Full Given Names or Company Contact Person:		
House/Unit No:	Street:	
Suburb:		Postcode:
Contact name and phone:	Email:	



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### Applicant (Appointer's) Declaration

As the owner or person having the benefit of the Development Consent or Complying Development Certificate stated on this form, I appoint Liverpool City Council as the Principal Certifier.

- I declare that all the information provided in this application is, to the best of my knowledge, true and correct.
- As required by Cl 30 of the Building and Development Certifiers Regulation 2020 I have freely chosen to engage the particular certifier and have read the contract and any document accompanying the contract and understand the roles and responsibilities of the person and the registered certifier
- I understand that I am entering into a contract with Council as required by Section 31 of the Building and Development Certifiers Act 2018 (NSW)
- I agree to appoint Liverpool City Council to carry out all necessary certification work relevant or related to the development.
- I have read, understood and accept the terms and conditions contained in the "Certification Appointment and Service Agreement". A copy of this document is attached and is also available from Council's website.

Yes     No

**Signature of Applicant (Appointer):**

**Date:**

Print Name(s)

### OFFICE USE - COUNCIL

Application form satisfactorily completed and relevant approvals referenced.

Officer Name:

Officer Signature:

(Signed for and on behalf of Liverpool City Council)

**Date:**

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CERTIFIER (PC) AND SERVICE AGREEMENT**

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and Development Certifiers Act 2018 (NSW)

**Certification – Appointment and Service Agreement of Principal Certifier (PC)**

Liverpool City Council (LCC) aims to provide efficient, quality and cost effective building inspections, approval and certification services to its clients. LCC has a team of accredited, professional and experienced Building Surveyors who will ensure that relevant Building Regulations, Australian Standards and Development Consent requirements are satisfied as applicable to a Principal Certifier.

**TERMS AND CONDITIONS**

This Appointment and Service Agreement (the Agreement) forms part of the contract for certification work in accordance with Section 31 of the Building and Development Certifiers Act 2018 (NSW) and applies where a person having the benefit of a consent elects to appoint (the appointer/s) LCC to issue a Construction Certificate or Complying Development Certificate and/or act as the Principal Certifier (PC) in accordance with the *Environmental Planning & Assessment Act 1979*.

The functions under the *Environmental Planning & Assessment Act 1979*, which are to be carried out as part of this Agreement, relate to the nominated Development Consent, Construction Certificate or Complying Development Certificate, as issued by LCC including all endorsed and referenced plans and documentation.

The Agreement also encompasses any subsequent modifications to the abovementioned approvals, subject to payment of applicable fees and charges, and unless otherwise advised in writing.

The person having the benefit of a Development Consent for development involving building work or a Complying Development Certificate, for development involving building work, must appoint a PC, however, the appointment of a PC may not be made by any person, contractor or the like who will carry out the building work (e.g. builder or sub-contractor) unless that person is also the owner of the land on which the work is to be carried out.

**1. Errors and Omissions**

- 1.1. LCC does not accept responsibility for any damages, loss or delay suffered by the appointer/s or any other related party arising as a result of any omission or error contained within the agreement or any failure of the appointer/s to comply with all terms and conditions of the agreement.
- 1.2. In the event of any negligent act or omission by the appointer/s, LCC shall be indemnified against and released from all liability, damages, compensation, actions, claims, disputes and suites of any kind which may arise before, during or after the period of the agreement in relation to the appointment of LCC.

**2. Scope**

- 2.1. The scope of works covered by the Agreement is limited to building works described in the Construction Certificate or Complying Development Certificate.

**3. Who May Carry Out Certification Work**

- 3.1. The details of the officers employed by LCC, any of whom may carry out certification work and inspections under this Agreement, can be found on the Fair Trading website <https://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/preparing-to-build-and-reno-vate/finding-and-appointing-a-certifier>

**4. Appointment**

- 4.1. All information provided by the appointer/s shall be taken to be accurate and correct. LCC shall not accept any responsibility for any intentional or unintentional error or omission made by the appointer/s.
- 4.2. The appointer/s confirms or verifies that no building works, the subject of a relevant Development Consent for development, Construction Certificate or Complying Development Certificate, have commenced prior to the appointment of LCC under this Agreement.
- 4.3. Where building works have commenced prior to the appointment of LCC, the appointment shall be deemed invalid.
- 4.4. The appointer/s shall keep the PC informed of any changes to the details of the Principal Contractor (builder) and any relevant insurance required by the builder. Failure to meet this obligation shall result in the appointer/s indemnifying LCC against any losses suffered as a result of non-compliance with any legislative requirements.
- 4.5. The appointer/s are responsible for ensuring that a copy of the Home Building Compensation Fund Certificate of Insurance or Owner Builder Permit is submitted to the PC prior to the commencement of building works, where required by the Home Building Act 1989. The commencement of the appointment

as PC will not occur until this requirement has been met.

- 4.6. LCC shall not accept responsibility for any damages or costs associated with the PC's inability to issue an Occupation Certificate due to, but not limited to, the following:
- Non-compliance with a condition of the Development Consent or Complying Development Certificate
  - Unsatisfactory final inspection
  - Non-compliance with BASIX commitments
  - Missed mandatory critical stage inspection, or other inspection
  - Non-compliance with Development Consent, Construction Certificate and Complying Development Certificate endorsed plans or documentation and/or
  - Failure to pay the required fees.

## 5. Structural Engineering and Other Specialist Details

- 5.1. Any structural or other specialist engineering details relating to the building work shall be forwarded to the PC prior to commencement of building works. Such details are to confirm compliance with the relevant provisions of the Building Code of Australia and/or Australian Standards, to the satisfaction of the PC.

## 6. Inspections

- 6.1. The appointer/s acknowledges that certain mandatory critical stage inspections, and other inspections of the building works, are required to be carried out by the PC.
- 6.2. LCC, as the PC, shall notify the appointer/s of any mandatory critical stage inspection requirements, and any other inspection requirements, in accordance with Part 6 of the *Environmental Planning and Assessment Act 1979*. The mandatory critical stage inspection requirements, and other inspection requirements, will generally be listed in the notice attached to the Construction Certificate or Complying Development Certificate.
- 6.3. The PC will undertake inspections of the relevant building works during construction, and prior to the issue of an Occupation Certificate, so to ascertain and confirm compliance with the Development Consent, Construction Certificate, Complying Development Certificate, Building Code of Australia and/or other relevant or applicable standards for construction.
- 6.4. The appointer/s authorise right of entry to the property, and any building works the subject of Development Consent and a Construction Certificate or Complying Development Certificate, by any accredited certifier or other person, arranged by or employed by LCC to carry out any mandatory critical stage inspections, or other inspections, as deemed necessary or required by the PC.
- 6.5. The appointer/s acknowledges that it is the Principal Contractor (builder) or Owner Builder's responsibility pursuant to Clause 163 of the *Environmental Planning & Assessment Regulations 2000* to make suitable arrangements with the PC to carry out any mandatory critical stage inspection, by calling Ami on 1300 522 528 in accordance with the notice attached to the Construction Certificate or Complying Development Certificate.
- 6.6. The appointer/s acknowledges and accepts that building works must not and cannot proceed to any subsequent stage of construction prior to obtaining a satisfactory inspection result from the PC for each relevant stage of construction.
- 6.7. The PC will provide confirmation of the outcome of any mandatory critical stage inspection, or other inspection, as soon as practical after the inspection has been completed.
- 6.8. The appointer/s acknowledges and accepts that a failure to request the PC to carry out a mandatory critical stage or other inspection may prejudice and possibly prevent the issue of an Occupation Certificate in respect of the building.

## 7. Third Party Certification of Works

- 7.1. To ensure compliance with the Development Consent, Construction Certificate, Complying Development Certificate and/or Building Code of Australia, the appointer/s acknowledges that the Principal Contractor/Owner Builder may be required to submit third party certification from a suitably qualified person in a specific field (e.g. structural engineer) to the PC demonstrating a specific matter or element of the building work complies with any relevant standard. The PC will advise when this is required by inspection result or written documentation. Such certification is required to be prepared by an accredited certifier or other suitably qualified/experienced person and must reference the relevant provisions of the Building Code of Australia, Australian Standards and Development Consent, Construction Certificate or Complying Development Certificate endorsed plans and documentation.

This certification is in addition to any mandatory critical stage inspection, or other inspection requirements required to be carried out by the PC.

## 8. Missed Inspections

- 8.1. Where a mandatory critical stage inspection, or other inspection has been unavoidably missed, the Principal Contractor/Owner Builder must, within two (2) days of becoming aware that the inspection has been missed, advise the PC in writing as to the circumstances causing the inspection to be missed and must supply to the PC, all or any documentation requested by the PC concerning the unavoidably missed inspection.

## 9. Occupation Certificate

- 9.1. An Occupation Certificate can only be issued by the PC.

- 9.2. The appointer/s acknowledges and accepts that the occupation or use of the whole or any part of a new building, or change of an existing use/classification, must not occur unless an Occupation Certificate has been issued in relation to the building or part.
- 9.3. The appointer/s acknowledges and accepts that the *Environmental Planning & Assessment Act 1979* contains penalty provisions for use or occupation of a building absent of a validly issued Occupation Certificate. The appointer/s acknowledges and accepts that liability for occupation or use of the whole or any part of a new building, or change of an existing use/classification, rests with the appointer/s.
- 9.4. *LCC Certifiers'* Occupation Certificate fees include or provide for the consideration and issue of one Occupation Certificate only. The appointer/s acknowledges and accepts that works carried out not in accordance with the relevant Development Consent, Construction Certificate, Complying Development Certificate, or the Building Code of Australia, may result in the PC refusing to issue an Occupation Certificate.

#### **10. Service Fees**

- 10.1. All fees and charges mentioned in this Agreement are based on LCC's current Schedule of Fees and Charges published on its website.
- 10.2. The fees for inspection and certification services are as quoted by Liverpool City Council and are payable upon appointment and on lodgement of any Construction Certificate or Complying Development Certificate. All fees are inclusive of GST.
- 10.3. The fees quoted provide for the PC to carry out one (1) inspection in relation to each inspection listed in the schedule to the approval.
- 10.4. Additional inspections required due to staging of building works or variations in the construction sequence may attract an additional fee.
- 10.5. Reinspection of works arising as a result of incomplete or unsatisfactory mandatory critical stage inspections, or other inspections, may attract an additional fee.
- 10.6. Where the appointer/s, the Principal Contractor or the Owner Builder, requests site meetings or site inspections, in addition to any mandatory critical stage inspection requirement, or other inspection requirement, LCC reserves its right to impose or require the payment of an additional fee.
- 10.7. Where the PC becomes or is made aware of a matter that requires investigation or site visits not elsewhere dealt with by this Agreement, LCC reserves its right to impose or require the payment of an additional fee.
- 10.8. Where additional fees occur, payment is ordinarily required prior to provision of the service. Where the service is completed prior to payment, an invoice will be issued within twenty one (21) days after the completion of that work.
- 10.9. In circumstances where LCC is appointed under this Agreement, and the requisite fee payment is not honoured, the appointer/s acknowledges and accepts liability for all or any unpaid fees and any associated debt recovery costs plus interest incurred from the time of the appointment.
- 10.10. The appointer/s acknowledges and accepts that LCC, may suspend its services where fees have not been paid.

#### **11. Work Health and Safety**

- 11.1. The appointer(s) acknowledges and accepts the LCC may suspend services where it believes that the health and safety of any certifying authority, accredited certifier or other person employed by or contracted to LCC is at risk.

#### **12. Miscellaneous**

- 12.1. The appointer/s must notify the PC in writing of any change in the details or address of the Principal Contractor/Owner Builder.
- 12.2. This agreement and associated fee services shall expire two (2) years after the date of the agreement, whereupon LCC may cancel the agreement.
- 12.3. LCC may terminate this agreement or commence legal proceedings if there is a breach of the terms of this Agreement
- 12.4. LCC recommends that the appointer/s reviews the Development Consent conditions and ascertain whether the Building Contract covers all additional requirements under the Development Consent. It is common that some conditions of consent are not covered under the Building Contract and may be the responsibility of the owner/s to fulfil such conditions prior to obtaining an Occupation Certificate. LCC recommends that you familiarise yourself with such post-contract requirements and 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)<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.

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