

Information about registered certifiers – strata and subdivision certifiers

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 class of **certifier—strata** or **certifier—subdivision**.

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* or the *Strata Schemes Development Act 2015*.

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.
- 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 strata or subdivision certifier do?

A strata certifier can carry out all certification work under the *Strata Schemes Development Act 2015*. This includes issuing a **strata certificate** that is required to register a strata plan, strata plan of subdivision or notice of conversion. This certificate can only be issued if the certifier has inspected the complete or substantially complete construction work and is satisfied that legislative requirements are met.

A subdivision certifier can issue a **subdivision works certificate** under the *Environmental Planning and Assessment Act 1979* for proposed subdivision work. This certificate certifies that the proposed work, if completed in accordance with specified plans and specifications, will comply with regulatory requirements. A subdivision certifier can also inspect subdivision work, with the approval of the principal certifier.

Subdivision certifiers can also issue a **complying development certificate** for a proposed subdivision, or proposed development under clause 130 of *State Environmental Planning Policy (Infrastructure) 2007* (water supply and sewerage connections). They can also inspect the development site.

Note, if you need a subdivision certificate for completed subdivision work, this can only be issued by a local council².

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).

² A private certifier may issue a subdivision certificate only if an environmental planning instrument (EPI) permits private certifiers to be the principal certifier for subdivision work. No EPI currently permits this.

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.