

Information about registered certifiers—fire safety

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—fire safety**.

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 upfront for any certification work that involves the determination of a development certificate.
- 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 types of certificates and reports are issued by a fire safety certifier?

Registered fire safety certifiers can issue:

- **compliance certificates** under Part 6 of the *Environmental Planning and Assessment Act 1979*
- **performance solution reports** under clause 130(2A) or 144A of the *Environmental Planning and Assessment Regulation 2000*.

Compliance certificates

By law, a compliance certificate may certify strict, substantial or other compliance and is a certificate to the effect that:

- completed building work complies with particular plans, specifications, standards or requirements, or
- a particular condition of development consent has been complied with, or
- a building has a particular classification under the Building Code of Australia, or
- an aspect of development (including design) complies with particular standards or requirements.

An applicant may be required to obtain one or more compliance certificates, such as for fire safety aspects of a performance solution to the Building Code of Australia, for the design of building work and for completed work. This includes work that relates to fire safety systems and components; the safety of persons in the event of fire; or fire prevention, detection and suppression.

Certifiers can issue compliance certificates even if they have been involved in designing or carrying out the work, provided they are not also the principal certifier for the development.

Performance solution reports

If your development is proposed to include a performance solution related to fire safety, you may need to obtain a performance solution report. Among other things, the report must justify the performance solution, describe how it was assessed as meeting requirements, and describe any restrictions or conditions on the performance solution.

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.