

## **Building Professionals (Provision of Information) Order 2018**

under the

Building Professionals Regulation 2007

I, the Secretary of the Department of Finance, Services and Innovation, in pursuance of clause 20G of the *Building Professionals Regulation 2007*, make the following Order.

MARTIN HOFFMAN  
Secretary  
Department of Finance, Services and Innovation

### **Explanatory note**

The object of this order is to specify the information about certification work, building work and related matters that A1, A2 and A3 accreditation holders, accredited bodies corporate and councils must provide to the Building Professionals Board.

This Order is made under Clause 20G of the *Building Professionals Regulation 2007*.

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### 1 Name of Order

This Order is the *Building Professionals (Provision of Information) Order 2018*.

### 2 Commencement

This Order commences on 1 July 2018 and is required to be published in the NSW Government Gazette.

### 3 Definitions

(1) In this Order:

**Building work** has the same meaning as in the *Environmental Planning and Assessment Act 1979* but does not include work involved in the construction of a swimming pool or spa pool.

**Certification information provider** – see clause 4.

**Principal certifier** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**Principal contractor** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**Spa pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Swimming pool** has the same meaning as in the *Swimming Pools Act 1992*.

(2) Notes included in this Order do not form part of this Order.

(3) Words and expressions used in this Order (but not defined in this Order) have the same meanings as they have in the *Building Professionals Act 2005*.

### 4 Definition of “certification information provider”

(1) In this Order **certification information provider** means a principal certifier appointed in respect of building work under section 6.6 of the *Environmental Planning and Assessment Act 1979* who is also:

- (a) an accredited certifier holding a category A1, A2 or A3 certificate of accreditation, or
- (b) an accredited body corporate, or
- (c) a council.

(2) Despite clause 4(1)(a), a person is not a certification information provider for the purposes of this Order if they carry out certification work on behalf of an accredited body corporate.

**5 Information to be provided to the Board – before building work commences**

- (1) A certification information provider must provide to the Board the information prescribed in this clause no later than 2 days before the building work commences.
- (2) For the purposes of this clause, the prescribed information is:
  - (a) details of the certification information provider, including:
    - (i) full name,
    - (ii) accreditation number,
    - (iii) category of accreditation held,
    - (iv) email address.
  - (b) the date the certification information provider was appointed or replaced as the principal certifier.
  - (c) if the certification information provider is employed by a corporation, body corporate or council (an **employer**):
    - (i) the name of the employer,
    - (ii) the Australian Business Number of the employer,
    - (iii) the suburb and postcode where the principal place of business of the employer is located.
  - (d) details of the building work for which a certification information provider has been appointed, including:
    - (i) the address of the building site,
    - (ii) the Lot, Deposited Plan, Section number of the building site,
    - (iii) the Local Government Area where the building site is located,
    - (iv) the commencement date of the building work,
    - (v) the name of the owner of the land, property or premises to which the building work relates,
    - (vi) the total number of storeys in the building,

**Note:** Both above ground and below ground storeys must be included.
    - (vii) the total floor area of the existing building on the building site,
    - (viii) the total floor area of the new building on the building site,
    - (ix) the total area of the building site,
    - (x) the total estimated cost of the building work,
    - (xi) the building classification/s of the building under the *Building Code of Australia*.

**Note:** if more than one building classification applies – all relevant classifications must be provided.

- (e) subject to subclause (2)(f), details of whether the intended use of the land to which the building work relates is non-residential, residential or mixed use.
- (f) if the intended use of the land to which the building work relates is residential or mixed use:
  - (i) the number of existing dwellings on the building site,
  - (ii) the number of existing dwellings to be demolished on the building site,
  - (iii) the number of new dwellings to be created on the building site,
  - (iv) details of whether the residential building subject to the development consent is attached, detached or semi-detached,
  - (v) whether the residential building subject to the development consent is a single or dual occupancy.
- (g) if the building work includes a performance solution of any kind, the section of the *Building Code of Australia* to which the performance solution relates.

**Note:** if more than one performance solution is included in the building work, all relevant sections of the *Building Code of Australia* to which those performance solutions relate must be provided.
- (h) if a development application has been granted for the building work for which a certification information provider has been appointed:
  - (i) the development application number,
  - (ii) the date the development application was issued,
  - (iii) subject to subclause (2)(h)(iv), details of the authority that issued the development application,
  - (iv) if a council issued the development application, the name of the Local Government Area.
- (i) if a complying development certificate has been issued for the building work for which a certification information provider has been appointed:
  - (i) the complying development certificate number,
  - (ii) the date the complying development certificate was issued,
  - (iii) subject to subclause (2)(i)(iv), the name of the applicant for the complying development certificate,
  - (iv) if the applicant is an agent of the owner of the land, property or premises to which the building work relates, the name and Australian Business Number of the owner's agent,
  - (v) subject to subclauses (2)(i)(vi) and (2)(i)(vii), information on the authority that issued the complying development certificate,
  - (vi) if a council issued the complying development certificate, the name of the Local Government Area.
  - (vii) if an accredited certifier issued the complying development certificate, the full name and accreditation number of the accredited certifier, and the

name, address and Australian Business Number of the accredited certifier's employer, if applicable.

- (j) if a construction certificate has been issued for the building work for which a certification information provider has been appointed:
  - (i) the construction certificate number,
  - (ii) the date the construction certificate was issued,
  - (iii) subject to subclause (2)(j)(iv), the name of the applicant for the construction certificate,
  - (iv) if the applicant is an agent of the owner of the land, property or premises to which the building work relates, the name and Australian Business Number of the owner's agent,
  - (v) subject to subclauses (2)(j)(vi) and (2)(j)(vii), information on the authority that issued the construction certificate,
  - (vi) if a council issued the construction certificate, the name of the Local Government Area,
  - (vii) if an accredited certifier issued the construction certificate, the full name and accreditation number of the accredited certifier, and the name, address and Australian Business Number of the accredited certifier's employer, if applicable.

## **6 Information to be provided to the Board – principal contractor details**

- (1) A certification information provider must provide to the Board the information prescribed in this clause within 2 days after being notified by the person having the benefit of the development application or complying development certificate that the person:
  - (a) will carry out the building work as an owner-builder, or
  - (b) has appointed a principal contractor for the building work.
- (2) For the purposes of this clause, the prescribed information is:
  - (a) if the principal contractor for the building work for which a certification information provider has been appointed is the holder of a contractor licence, an endorsed contractor licence, a supervisor certificate or an owner-builder permit under the *Home Building Act 1989*:
    - (i) the name of the principal contractor, and
    - (ii) the licence, certificate or permit number of the principal contractor, and
    - (iii) the name of the company in which the principal contractor is employed or associated, if applicable, and
    - (iv) the Australian Business Number of the company in which the principal contractor is employed or associated, if applicable.
  - (b) if subclause (2)(a) does not apply to the principal contractor for the building work:

- (i) the name of the principal contractor, and
- (ii) the email address of the principal contractor, and
- (iii) the phone number of the principal contractor, and
- (iv) the suburb and postcode in which the principal place of business of the principal contractor is located.

#### **7 Information to be provided to the Board – modification details**

- (1) If a modification to a development application or complying development certificate is granted by the certification information provider or another consent authority in respect of the building work for which the certification information provider has been appointed, the certification information provider must provide the information prescribed in this clause to the Board within 2 days after granting the modification or within 2 days of being notified of the modification, as is the case.
- (2) For the purposes of this clause, the prescribed information is:
  - (a) the modified development application number or modified complying development certificate number,
  - (b) the date the modified development application or complying development certificate was granted,
  - (c) the date the modified development application or complying development certificate was issued,
  - (d) subject to subclause (2)(d)(i), the name of the applicant for the modified development application or complying development certificate,
    - (i) if the applicant is an agent of the owner of the land, property or premises to which the building work relates, the name and Australian Business Number of the owner's agent,
  - (e) subject to subclauses (2)(e)(i) and (2)(e)(ii), information on the authority that issued the modified development application or complying development certificate,
    - (i) if a council issued the modified development application or complying development certificate, the name of the Local Government Area,
    - (ii) if an accredited certifier issued the modified complying development certificate, the full name and accreditation number of the accredited certifier, and the name, address and Australian Business Number of the accredited certifier's employer, if applicable.

#### **8 Information to be provided to the Board – notices issued by Principal Certifier**

- (1) A certification information provider must provide to the Board the information prescribed in this clause within 2 days after issuing a notice under section 6.31 of the *Environmental Planning and Assessment Act 1979*.
- (2) For the purposes of this clause, the prescribed information is:
  - (a) details of whether the notice was served on the owner of the land, property or premises, an owner-builder or a principal contractor,

- (b) the date the notice was issued.

**9 Information to be provided to the Board – critical stage inspections**

- (1) A certification information provider must provide to the Board the information prescribed in this clause in accordance with subclauses (2) and (3).
- (2) If a critical stage inspection is required to be carried out by the certification information provider, the information prescribed in this clause must be provided within 2 days after:
  - (a) the building work is inspected in person, or
  - (b) becoming aware that the inspection has been missed.
- (3) If a critical stage inspection is required to be carried out by a person who is not the certification information provider, the information prescribed in this clause must be provided within 2 days after:
  - (a) being provided with a copy of the record of inspection required under clause 162B of the *Environmental Planning and Assessment Regulation 2000*, or
  - (b) becoming aware that the inspection has been missed.
- (4) For the purposes of this clause, the prescribed information is:
  - (a) the critical stage at which the inspection was performed,
  - (b) the date of the critical stage inspection,
  - (c) the result of the critical stage inspection,
  - (d) the full name and accreditation number of the accredited certifier who performed the inspection, and the name, address and Australian Business Number of that accredited certifier's employer, if applicable

**10 Information to be provided to the Board – occupation certificate details**

- (1) A certification information provider must provide to the Board the information prescribed in this clause within 2 days after issuing an interim or final occupation certificate.
- (2) For the purposes of this clause, the prescribed information is:
  - (a) the occupation certificate number,
  - (b) the date the occupation certificate was issued,
  - (c) subject to subclause (2)(d), the name of the applicant for the occupation certificate,
  - (d) if the applicant is an agent of the owner of the land, property or premises to which the building work relates, the name and Australian Business Number of the owner's agent,
  - (e) subject to subclauses (2)(e)(i) and (2)(e)(ii), details of the authority that issued the occupation certificate,

- (i) if a council issued the occupation certificate, the name of the Local Government Area,
- (ii) if an accredited certifier issued the occupation certificate, the full name and accreditation number of the accredited certifier, and the name, address and Australian Business Number of the accredited certifier's employer, if applicable.

**11 Manner in which information is to be provided to the Board**

- (1) A certification information provider must provide to the Board the information prescribed in this Order electronically using an *approved data reporting solution*.
- (2) For the purposes of this clause, an ***approved data reporting solution*** means:
  - (a) the 'CertAbility' mobile or tablet application, available on the App Store and Google Play Store,
  - (b) the 'Secure File Transfer Protocol', issued by the Board,
  - (c) the 'Building Certifiers Application Programming Interface', available on Api.nsw,
  - (d) a digital reporting solution approved by the Board and made available online.