
Fact Sheet: Building Certificates

What is a Building Certificate?

A building Certificate is issued under Section 149A of the Environmental Planning and Assessment Act 1979 and once issued, effectively prevents Council for a period of 7 years from the date of issue of the certificate, from:

- Making an order (or taking proceedings for the making of an order or injunction) under the Environmental Planning and Assessment Act 1979 or the Local Government Act 1993 requiring the subject building to be repaired, demolished, altered, added to or rebuilt, and
- Taking proceedings in relation to any encroachment by the subject building onto land vested in or under the control of Council, in relation to matters existing or occurring before the date of issue of the certificate.

However, a Building Certificate does not operate to prevent a Council:

- From making Order No 6 (Fire Safety Orders) in the Table to Section 121B of the Environmental Planning and Assessment 1979, or
- From taking proceedings against any person with respect to that person's failure:
 - i. To obtain a development consent with respect to the erection or use of the building, or
 - ii. To comply with the conditions of a development consent.

Council is the only authority that may issue a Building Certificate.

Who can make an application for a Building Certificate?

An application for a Building Certificate may be made:

- a) By the owner of the land on which the building is erected, or
- b) By any other person, with the consent of the owner of that land, or
- c) By the purchaser under a contract for the sale of property that comprises or includes the building or part, or by the purchaser's Australian legal practitioner or agent, or
- d) By a public authority that has notified the owner of its intention to apply for the certificate.

What information should be supplied in connection with an application for a Building Certificate?

Wagga Wagga City Council generally requires the following information to be provided with any application for a Building Certificate:

- A completed Building Certificate application form, detailing exactly which structures the application relates to and whether it relates to the whole or part of those structures/property.
- A survey report identifying all relevant structures on the subject property. However, if the applicant is able to provide evidence that no material change has occurred in relation to the Building since the date of a Survey Certificate which, or a copy of which, is supplied to the Council by the applicant, the Council is not entitled to require the applicant to supply a more recent Survey Certificate.
- Access arrangements – It is the applicant's responsibility to ensure that access for Council to inspect the subject structures has been arranged.

What if my Building Certificate Application is refused?

- An applicant who is aggrieved by a Council's refusal to issue a Building Certificate, or who is aggrieved by a Council's refusal to issue a Building Certificate within 40 days after the date of application for the certificate may appeal to the Court.
- The appeal must be made within 12 months after the date on which the refusal is communicated to the person, the date on which the 40-day period expires or the date of the notice under section 149C, as the case requires.

What are some of the re-occurring matters that restrict the issuing of Building Certificates within the Wagga Wagga Local Government Area until those matters have been resolved?

- Un - approved structures being identified on the subject property (Sheds and alterations and additions that have not obtained required approvals)
- Structures being located over Council easements (Sewer and Stormwater Easements Encroachments without prior approval of Council)
- Encroachment of structures / buildings onto land vested in or under the control of Council
- Fire Safety Issues (No smoke alarms in dwellings).

Council will advise applicants in writing of any issues that restrict the issuing of a Building Certificate and will advise of those actions that are required to be undertaken to resolve the matter.

What is the fee for a Building Certificate Application?

Required fees can be located within Council's Revenue and Pricing Policy which can be accessed on Council's webpage.