

Request for Contract - Engagement for the Performance of Certification Work

Building Certification Services – Environmental Planning and Assessment Act 1979

COMPLETE ALL SHADED AREAS AND ENSURE ALL OWNERS HAVE SIGNED THE SIGNATURE PANEL
(SECTION 9) PRIOR TO LODGEMENT

By completing this document, you (**Client**) are requesting a contract to be provided detailing the terms under which Wagga Wagga City Council (**Council**) will act as the **Principle Certifying Authority** and to provide the Certification Work for the Project described below.

ADVISORY NOTE: Pursuant to the Environmental Planning and Assessment Act 1979, states that persons with the benefit of development consent must appoint a Certifying Authority (CA). The CA is the person responsible for undertaking inspections during the building process and for the issuing of an Occupation Certificate.

The person with the benefit of the development consent is generally taken to be the owner of the land.

The Client and Owner/s must complete, sign and submit the completed and signed Contract to Council when lodging an application for Construction Certificate or Complying Development Certificate. Note: The Applicant and Client are to be same when lodging through the Planning Portal. Council will only start the certification work upon receipt of the completed and signed agreement and payment of the relevant fees and charges.

Section 1 The Certifier

Name: Wagga Wagga City Council
Address: PO Box 20
WAGGA WAGGA NSW 2650
Email: council@wagga.nsw.gov.au
Telephone: 1300 292 442

The Certifiers that Council proposes, at the date of the Agreement, to have carry out the certification work and undertake any inspections required under the Environmental Planning and Assessment Act or the Environmental Planning and Assessment Regulation under that agreement will be detailed in the prepared contract. All Council employees/contractors shall hold appropriate classes of registration for certification work performed.

Section 2 Client Details

Client Name/s:

Company:

(if applicable, ASIC register search required for company ownership providing proof of company officers)

Client ABN:

Postal Address:

Suburb &
Postcode:

Phone/Mobile:

Email:

Section 3 Owner Details (Certificate of Title)

Client Name/s:

Company:

(if applicable, ASIC register search required for company ownership providing proof of company officers)

Client ABN:

Postal Address:

Suburb &
Postcode:

Phone/Mobile:

Email:

Section 4 The Development

Description of development (eg single storey dwelling)

Estimated cost of construction:

Address of development

No & Street:

Suburb:

Lot/DP:

Section 5 Certification work to be performed *(Tick one or more boxes as appropriate)*

- Determination of applications for Development Certificates
- Determination of application for a Complying Development Certificate (CDC)
- Determination of application for a Construction Certificate (CC)
- Determination of application for Modification of CDC or CC
- Determination of application for a Compliance Certificate
- Determination of application for an Occupation Certificate

Section 6 Details of any existing consents relating to the development

A. Is there an existing Development Application (DA) approved consent in place?

- No** **Yes** ➔ **Complete details below**

Name of consent authority:

DA consent no: Date of consent:

B. Is there an existing Complying Development Certificate (CDC) approved consent in place?

- No** **Yes** ➔ **Complete details below**

Name of consent authority:

CDC consent no: Date of consent:

C. Has a Construction Certificate been issued?

- No** **Yes** ➔ **Complete details below**

Name of consent authority:

Certificate no: Date of Certificate:

D. Has a Compliance Certificate or Occupation Certificate been issued?

- No** **Yes** ➔ **Complete details below**

Name of consent authority:

Certificate no: Date of Certificate:

E. Has a Modification been issued?

- No** **Yes** ➔ **Complete details below**

Name of consent authority:

Certificate no: Date of Certificate:

Section 7 Fee Schedule

Council will undertake, for a fixed fee, all work involved in assessing, determining and finalising the application as set out in the Description of Services within the contract, excluding the costs of any service provided by a third party and any fees for obtaining or lodging documents, except for contingency items (if any) specified below.

These fees are exclusively for the determination of a development certificate and the carrying out of inspections and Occupation Certificates. Other fees will also be payable in accordance with Council's adopted Management Plan.

The prepared contract will contain a schedule of fees for the project, current at the date of preparation of the contract.

All fees are reviewed annually and will change as of 1 July each year. The fee payable will be based on those applicable on the day on which the agreement is executed by both parties.

Contingency items

Any additional inspections required as a result of Council being unable to issue a compliance certificate or Occupation Certificate may be subject to additional charges based on the rates outlined above.

Section 8 Statutory Obligations

An information brochure which is to include information about statutory obligations must accompany the prepared Contract, if one is published by NSW Fair Trading on its website. Fair Trading is the statutory body that accredits the Certifier and administers the Building and Development Certifiers Act and Regulation.

A copy of available Information Brochures is available at:

<https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers/certifier-forms>

Section 9 Conditions of Contract

Before signing the requested Contract please read Wagga Wagga City Council's Standard Agreement Conditions and ensure applicable attachments are included with that agreement.

Section 10 Signature of the parties

As the person for whom the certification work is to be carried out, I confirm that I have freely chosen to request a contract be prepared to engage Wagga Wagga City Council as the registered certifier.

Signed/executed by THE CLIENT **AND** ALL PROPERTY OWNERS *

by affixing my signature above I confirm that the company information contained within the attached ASIC search is current and unchanged.

Dated:

The information on this form is being collected to allow Council to process your application for a contract to be prepared and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.

* For company ownership, the following company officers must sign and must be accompanied by ASIC register search _ providing proof of company officers (visit <http://asic.gov.au>):

- a) two (2) directors of the company; or
- b) a director and a company secretary of the company; or
- c) for a proprietary company that has a sole director who is also the sole company secretary – that director.

INTRODUCTION

1. The Council is a certifying authority and employs accredited certifiers (the Certifier) who are authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council.

The Client seeks to engage the Council to perform certification work on the terms set out in this Agreement.

WHAT IS CERTIFICATION WORK

Certification work means:

- a) the determining of an application for a development certificate;
- b) the issue of a development certificate;
- c) carrying out the functions of a PCA;
- d) carrying out of inspections for the purposes of section 109E(3)(d) of the EP&A Act;
- e) carrying out inspections under section 22 Swimming Pools Act 1992 and issuing certificates of compliance under that Act.

Development certificate means:

- a) a certificate under Part 6 of the EP&A Act, being:
 - a construction certificate
 - Subdivision works certificate
 - a compliance certificate
 - a subdivision certificate
 - an occupation certificate
- b) a complying development certificate
- c) a strata certificate issued under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

INTERPRETATION

Words and terms used in this Agreement are defined in the Dictionary (page 4).

DICTIONARY

Accredited certifier means the holder of a certificate of accreditation as an accredited certifier under the BP Act.

Applicable environmental planning instrument means the State Environmental Planning Policy or the Local Environmental Plan nominated by the Client as the instrument against which an application for a complying development certificate is to be assessed.

BASIX means the Building Sustainability Index.

BCA means the Building Code of Australia.

BP Act means the Building Professionals Act 2005.

Contractor licence means a licence issued under the Home Building Act 1989.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2000.

Owner-builder permit has the meaning given to it by the Home Building Act 1989.

PCA means a principal certifying authority appointed under section 109E of the EP&A Act.

Residential building work has the meaning given to it by the Home Building Act 1989.

FEES & CHARGES

The set fees and charges for the determination of a development certificate must be paid to the Council before, or at the time, an application for the development certificate is lodged with the Council.

These fees are exclusively for the determination of a development certificate and the carrying out of mandatory inspections and occupation certificates. Other fees will also be payable in accordance with Council's adopted Management Plan.

All fees are reviewed annually and will change as of 1 July each year. The fee payable will be based on those applicable on the day on which the agreement is executed by both parties.

UNDERTAKE THE FUNCTIONS OF PRINCIPAL CERTIFYING AUTHORITY (PCA)

Description of services

The Certifier will, on behalf of the Council, perform all work that is necessary to comply with relevant statutory requirements, including:

1. Not later than two days before any building work or subdivision work commences, the Certifier will:
 - a) notify the Client of all inspections that are required to be carried out of the building work or subdivision work.
2. Ascertain, before any building work or subdivision work commences, that a construction certificate or complying development certificate has been issued for the work.
3. Ascertain, before any residential building work commences, that either:
 - a) the principal contractor is the holder of a licence under the Home Building Act 1989 and is covered by appropriate insurance; or
 - b) where the work is to be carried out by an owner-builder, that an owner-builder permit has been issued under the Home Building Act 1989.
4. The Certifier will either carry out all critical stage inspections of the building work or subdivision work prescribed by the EP&A Regulation or required by the Certifier.

5. The Certifier will make a record as required by the EP&A Regulation of all inspections carried out and will ensure that any other certifying authority that has carried out an inspection also prepares a report and supplies it to the Certifier.
6. The Certifier will determine whether any inspection (other than the last critical stage inspection) has been not carried out due to circumstances that were unavoidable, and whether the work that would have been inspected was satisfactory. The Certifier will make a record of any such missed inspection as required by the EP&A Regulation and provide a copy to the Client. The Certifier will also notify the principal contractor or owner builder of the missed inspection as required by the EP&A Regulation.
7. Determine applications for occupation certificates (subject to separate terms under this Agreement).

Compliance functions

8. The Certifier will take such steps as considered appropriate to address any of the following matters relating to the development:
 - a) non-compliance with the development consent;
 - b) the carrying out of work without development consent;
 - c) an unauthorised use of a building
 - d) a breach of a law relating to the carrying out of work or the use of the land;
 - e) a threat to the safety of a person or a person's property;
 - f) any other matter the Certifier considers to be in the public interest to address.
9. Without limiting the actions that the Certifier may take, the Certifier may:
 - a) attend the site or nearby properties to inspect any issue of concern relating to the development;
 - b) confer with any person in relation to any issues of concern;
 - c) cause correspondence to be issued to any person;
 - d) refer any matter of concern to such persons or authorities as the Certifier considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency;
 - e) issue notices under the EP&A Act.

Council's responsibilities as PCA

As the PCA Council will:

- Carry out inspections of the building work (referred to as critical stage inspections).
- Advise when third party certification may be required.
- Advise upon specific works to be completed or consent conditions to be satisfied before issuing occupation certificate(s).

- Issue an Interim Occupation Certificate and Final Occupation Certificate where warranted.

Critical stage and other building inspections

10. Council will undertake building inspections where applicable during the building process. These inspections are generally:
- After excavation for, and prior to the placement of any footings.
 - Prior to pouring in situ reinforced concrete building elements.
 - Prior to covering of the framework of any floor, wall, roof or other building element.
 - Prior to covering waterproofing in wet areas.
 - Prior to covering any stormwater drainage connections.
 - In the case of a swimming pool, after the construction of the swimming pool is completed and the barrier has been erected and before the pool is filled with water.
 - After building work has been completed and prior to an Occupation Certificate being issued in relation to the building.

Notice before inspection

11. The owner or principal contractor must provide Council with notice (excluding weekends and public holidays) when each inspection is ready to inspect. Notice is generally required 24 hours before the inspection is required.

Approval of inspections

12. Upon the completion of each satisfactory inspection Council will issue a Certificate certifying that the works are in accordance with the BCA. Where works are not satisfactory corrective action will be required or the Certificate will be refused. Where corrective action is required or the Certificate is refused the reasons for the decision will be recorded on the Certificate.

Missed Critical Stage Inspections

13. If any inspection is not carried out the owner/principal contractor must submit, in writing, the specific reasons why the inspection was missed and provide evidence that the building work complies with the Building Code of Australia.

Documentation

14. Prior to the commencement of construction, or during construction, Council may ask the Owner to provide specialist reports, plans, specifications and certification of building materials, process or works. Typical documents include structural engineering and other specialist details, survey reports, compliance certificates and fire safety certificates.

Any compliance certificates or other certification required must be

prepared by an accredited certifier or other suitably qualified person and must reference the relevant provisions of the BCA, Australian Standards and approved drawings, to the satisfaction of Council.

Note: It is an offence to knowingly make a false or misleading statement in an important aspect, or in connection with any document lodged with a certifying authority for purposes of the Environmental Planning and Assessment Act 1979 or the Environmental Planning and Assessment Regulation 2000.

The Consent Holder's responsibilities

15. The owner must:
- Ensure that a sign is erected in a prominent position on site showing the name and telephone number (outside of working hours) of the principal contractor (builder) and stating that unauthorised entry to the site is prohibited.
 - Ensure that the Principal Contractor is advised of the inspections required by Council and that the directions of Council are to be observed to ensure compliance with the development consent, construction certificate, BCA and the terms of this Agreement.
 - Notify Council at least 24 hours before each stage of construction for which Council requires an inspection is ready to be inspected (or re-inspected).
 - Provide any specialist reports, plans, specifications and certification of building materials, process or works requested by Council at any stage of construction prior to issue of an occupation certificate.
 - Comply with all relevant legislation, consents and approvals relating to the subject development including but not limited to the following Acts and the regulations made thereunder:
 - The Environmental Planning and Assessment Act 1979;
 - The Contaminated Land Management Act 1997;
 - The Protection of the Environment Operations Act 1997;
 - The Local Government Act 1993;
 - The Roads Act 1993;
 - The Road Transport (Safety and Traffic Management) Act 1999.

NOTE: To vary and modify a condition of consent requires the submission and approval of an application under S4.55 of the Environmental Planning and Assessment Act 1979.

- Inform Council of any known breach of any relevant legislation or matter that may require rectification or remediation as soon as practicable but not less than twenty four (24) hours after the Owner becomes aware of the breach or matter.

- Pay the service and inspection fees detailed in Council's Schedule of Fees and Charges.
- Refer to relevant Attachment(s) that contain a **Description of Services** and the relevant **Fees and Charges**.

ATTACHMENTS

APPLICATION FOR A COMPLYING DEVELOPMENT CERTIFICATE (CDC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate timely determination of the application, including:

1. Provide a blank copy of CDC application form to the Client.
2. Conduct an inspection of, or arrange for another accredited certifier to inspect, the development site, and prepare a record of the inspection.
3. Where there is an alternative solution relating to fire safety requirements obtain a compliance certificate or written report from a fire safety engineer or another accredited certifier that satisfies the requirements of the EP&A Regulation.
4. Assess whether the proposed development satisfies the development standards set out in the relevant environmental planning instrument, development control plan and the EP&A Regulation.
5. Determine the application and prepare a notice of the determination.
6. If the application is granted:
 - a) prepare a complying development certificate
 - b) endorse all relevant plans, specifications and other documents
 - c) prepare any associated fire safety schedule or fire link conversion schedule
 - d) ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e) ascertain if any contributions plan requires the CDC to be subject to a condition requiring a monetary payment.
 - f) issue CDC to the Client together with associated endorsed plans specifications and other approved documents.
 - g) forward copies of documents prepared to statutory authorities, including the NSW Rural Fire Service, as required by the EP&A Regulation.

APPLICATION FOR A
CONSTRUCTION CERTIFICATE
(CC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of CC application form to the Client.
2. If the development is on a site which affects an existing building, inspect the building and prepare a record of the inspection.
3. For alternative solutions for certain fire safety measures apply to the Fire Commissioner for an initial fire safety report.
4. If the development is a residential flat building, obtain a design verification from a qualified designer under the EP& A Regulation.
5. There is an alternative solution relating to fire safety requirements obtain a compliance certificate or written report from a fire safety engineer.
6. Assess whether the application satisfies the requirements of the EP&A Regulation, including compliance with the BCA, the development consent and any pre-conditions to the issue of a CC.
7. Determine the application and prepare a notice of the determination.
8. If the application is granted:
 - a) prepare a construction certificate
 - b) endorse all relevant plans, specifications and other documents
 - c) prepare any associated fire safety schedule or fire link conversion schedule
 - d) ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e) ascertain if any security or monetary payment or levy under sections 7.11 or 7.12 of the EP&A Act are required before the CC is issued.
 - f) issue CC to the Client together with associated endorsed plans specifications and other approved documents.

APPLICATION FOR AN
OCCUPATION CERTIFICATE (OC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of an OC application form to the Client.
2. Conduct an inspection of the development and prepare a record of the inspection.
3. If alternative solutions for certain fire safety measures), apply to the Fire Commissioner for a final fire safety report.
4. Obtain a final fire safety certificate or interim fire safety certificate as required by the EP& A Regulation.
5. If the development is a residential flat building to which the EP&A Regulation applies, obtain a further design verification from a qualified designer in relation to the completed works.
6. Ensure that all BASIX requirements required to be complied with before an OC may be issued have been satisfied, including obtaining any necessary BASIX completion receipt.
7. Where there is an alternative solution relating to fire safety requirements), obtain a further compliance certificate or written report from a fire safety engineer with respect to the completed works as required by the EP& A Regulation.
8. Assess whether the application satisfies the requirements of the EP&A Regulation, including whether any pre-conditions of the development consent or CDC which are required to be met before an OC may be issued, have been met and (where building work has been carried out) whether the work is not inconsistent with the development consent).
9. Determine the application and prepare a notice of the determination.
10. If the application is granted, prepare an OC and issue it to the Client.

APPLICATION FOR A
SUBDIVISION CERTIFICATE (SC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of SC application form to the Client.
2. Conduct an inspection of any subdivision work, if necessary.
3. Ascertain if any conditions of development consent, or requirements of a planning agreement, which are required to be complied with before a SC may be issued have been satisfied.
4. Ascertain if a certificate of compliance from a water supply authority is required, and if so, whether one has been obtained.
5. Ascertain if objector rights of appeal, if any, have lapse or been determined.
6. Ascertain if any drainage easement is required by an order under section 40 of the Land and Environment Court Act 1979, and if so, whether such an easement has been provided.
7. If any subdivision work has not been completed, ascertain if any agreement has been reached with the consent authority relating to the payment for, or the giving of security for, the completion of the subdivision work.
8. Determine the application and prepare a notice of determination.
9. If the application is granted, prepare a subdivision certificate and endorse the plan of subdivision.

APPLICATION FOR A
COMPLIANCE CERTIFICATE

Description of services

The Certifier will perform, on behalf of the Council, all work that is necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Conduct an inspection of any building work or subdivision work, if necessary.
2. Where appropriate, ascertain if a development consent or complying development certificate is in force with respect to building work or subdivision work which is the subject of the application.
3. If the application is granted, prepare a compliance certificate and issue it to the Client