



Goulburn Mulwaree Council
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Goulburn NSW 2580

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Contract for the Carrying out of Certification Work (Building)

Pursuant to the *Environment Planning and Assessment Act 1979* & the *Building and Development Certifiers Act 2018*.

PART A: INTRODUCTION

This is a Contract between Goulburn Mulwaree Shire Council (the Council) and the Client (as nominated below) and relates to the following Certification Work (please indicate by 'X' which of the following applies):

- Appointment as the Principal Certifier (PC):** ☐
- Construction Certificate*:** ☐
- Occupation Certificate*:** ☐
- Complying Development Certificate*:** ☐
- Inspection and issuing of Swimming Pool Certificate/s:** ☐

*Note: These certificates are 'Development Certificates' for the purposes of this Contract.

PART B: DEVELOPMENT DETAILS

Development Details

Description of Development:					
Lot/s:		Sec:		DP:	
Street Address:					
Suburb		Postcode:			
Details of Approvals (if known)					
DA or CDC No.		Issue Date:			
CC No.		Issue Date:			
Please Note: All plans, specifications and related documents issued in connection with the relevant approvals, including any modifications form part of this contract.					

PART C: APPLICANT DETAILS

Name of Applicant:	
Postal Address:	
Contact Phone Number:	
Email:	
Please note: The Principal Certifier (PC) may NOT be appointed by a person who will carry out the building work, unless that person owns the subject land. The PC must be appointed by the person who has the benefit of the Development Consent (ordinarily the owner).	

PART D – THE CERTIFIER

Name and Registration No:	Goulburn Mulwaree Council – LGA 051
Address:	184 Bourke Street Goulburn NSW 2580
Contact Phone Number:	(02) 4823 4444
Email:	council@goulburn.nsw.gov.au
Please Note: Council employs Certifiers who are registered by NSW Fair Trading under the <i>Building and Development Certifiers Act 2018</i> . The Applicant is advised that the certification work and any inspections required to be carried out under the <i>Environmental Planning & Assessment Act 1979</i> and <i>Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021</i> may be carried out by any one of the appropriately registered Council employees listed on the NSW Fair Trading Register of Certifiers .	

PART E: STATUTORY OBLIGATIONS

This contract is accompanied by an information sheet prepared by NSW Fair Trading pursuant to Clause 31 of the *Building and Development Certifiers Regulation 2020*, addressing the following:

- The role and statutory obligations of the Registered Certifier; and
- The role of the person for whom the certification work is carried out; and
- The types of information that can be found on the register of Registrations and Approvals under the Building and Development Certifiers Act 2018.

PART F: APPLICANT AND OWNERS DECLARATION AND SIGNATURE

The applicant and all property owners must consent to and sign this application. Please cross (X) each statement to acknowledge.

I/We acknowledge that the fees payable are calculated in accordance with Council's adopted Fees and Charges and are to be paid as follows:	
<ul style="list-style-type: none"> Determination of Development Certificates = before or on lodgement of the applicable application; and Appointment of Principal Certifier = before Council acceptance of the appointment and prior to any works commencing; and Unforeseen contingencies = Where Council carries out work as a result of unforeseen contingencies, Council will calculate the fee based on its Revenue Policy and provide an invoice within 21 days after the completion of that work. Payment to be made in accordance with the terms of the invoice. 	<input type="checkbox"/>
I/We agree to provide all documents that the Council may reasonably request to perform the function as the PC and/or Certifier.	<input type="checkbox"/>
I/We consent to Council Officers entering the subject property at any reasonable time, for the purpose of carrying out any mandatory critical stage inspection as required by the Act, or a regulatory inspection where required.	<input type="checkbox"/>
I /We acknowledge that I/we must comply with all relevant DA or CDC conditions and/or pre-conditions of consent nominated in the approval documentation.	<input type="checkbox"/>
I/We agree to notify Council of the appointment of the principal contractor or owner builder.	<input type="checkbox"/>
I/We agree to notify the principal contractor of any inspections of building work, as required by the PC.	<input type="checkbox"/>
I/We acknowledge that I/we have received and understand the description of services and responsibilities as detailed within the Contract.	<input type="checkbox"/>
I/we have freely chosen to engage Goulburn Mulwaree Council as the PC and/or Certifier.	<input type="checkbox"/>
I/we have read the contract and any document accompanying the contract and understand the roles and responsibilities of the client and the registered certifier.	<input type="checkbox"/>
I/We agree to receive approval documentation and correspondence via electronic communication.	<input type="checkbox"/>
By signing this agreement electronically, I/we agree to be legally bound by the terms of this agreement.	<input type="checkbox"/>
I/We declare that all the information provided is true and correct. I/We also understand that, if incomplete, the application may be delayed or rejected, and further information may be requested.	<input type="checkbox"/>

Owner	Applicant	Name	Position (if company)	Signature
<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input type="checkbox"/>			

Please note:

- If signing on the owner's behalf, please state your legal authority, and provide documentary evidence (e.g. copy of Power of Attorney, trust deed, etc.)
- If signing on behalf of a body corporate or company, the application should be signed by two authorised representatives of the Company, and the names and positions of authority in the Company must be stated on the form. If you are the Sole Director, or are signing under Common Seal, this should be stated, and one signature will suffice. Alternatively, authority may be provided on Company letterhead.

PART G: DATE OF CONTRACT

This appointment of Principal Certifier and Contract for carrying out certification work is made on the date it is signed and endorsed by Councils authorised officer.

PART H: COUNCIL ENDORSEMENT – Council to complete

Name:			
Position:			
Signed: (on behalf of Goulburn Mulwaree Council)		Date:	

ATTACHMENT A – TERMS AND CONDITIONS

1. INTRODUCTION

This is a contract between Goulburn Mulwaree Council (GMC) ("Council") and the person/s (hereinafter referred to as "the client") whose name/s and signature/s appear on the contract. The contract relates to an application from the client to engage GMC to provide certification services; including the appointment of Council as the Certifying Authority and Principal Certifier (PC) in order to assess and determine the application/s the subject of this contract and carry out nominated critical stage inspections of the building works and determination of application/s for Occupation Certificates. This Attachment sets out the terms, conditions and responsibilities of the Client and the Council

2. SERVICE PROVIDED AND RESPONSIBILITIES OF COUNCIL

Under the EP&A Act a certifier including the principal certifier (PC) has a range of functions in relation to building work:

- Issuing construction certificates or complying development certificates for building work,
- Carrying out inspections of building work,
- Issuing occupation certificates,
- Any other functions conferred or imposed on the certifier under the EP&A or any other Act.

4. OBLIGATIONS OF THE CERTIFIER

The Certifier will:

4.1 Ascertain, before any building work commences, that a construction certificate or complying development certificate has been issued for the work;

4.2 Ascertain, before any residential building work commences, that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the Home Building Act 1989, unless the work is to be carried out by an owner-builder;

4.3 Where the work is being carried out by an owner-builder, ascertain that the owner-builder is the holder of an owner-builder permit required under the Home Building Act 1989 before an owner builder commences on the site of any residential building work;

4.4 Confirm at what stages of construction inspections are to be carried-out. The Notice of Inspections will be attached to the CC or CDC.

4.5 Carry out critical stage inspections of the building work as prescribed by the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* or as required by the Certifier before issuing an occupation certificate for the building work;

4.6 Make a record as required by the EP&A Certifier Regulation of all inspections and provide a copy to the client or their representative. Note: Inspections will be carried out Monday to Friday between the hours of 9:30AM – 12:00PM and 1:30PM – 4:00PM (excluding Public Holidays, weekends, Union Picnic Day and Council shutdown period/s).

4.7 Advise the client of the details of the work the subject of an unsatisfactory inspection and the need (if any) to carry out a reinspection.

4.8 Notify the Client if any additional fees for inspection are required as a result of reinspection for incomplete or defective works. Reinspection fees will be levied and payable for all reinspections required as a result of work not being ready for the booked inspection or as a result of defective works.

4.9 Council will determine whether any inspection (other than the last critical stage inspection) has been not carried out, and whether the work that would have been inspected was satisfactory. Council will make a record of any such missed inspection and provide a copy to the Client and owner. Council will also notify the principal contractor of the missed inspection.

4.10 Assess applications and issue determinations for Construction Certificate, Complying Development Certificates and Occupation Certificates in the prescribed form.

4.11 Ensure that any preconditions required by a development consent or complying development certificate are met for the work before the issue of an occupation certificate.

4.12 Without limiting the compliance actions that Council may take, Council may:

- attend the site to inspect any issue of concern relating to the development.
- cause correspondence to be issued to any person.
- refer any matter of concern to such persons or authorities as Council considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency.
- issue Directions and Orders under the EP&A Act.

5. FEES AND CHARGES

5.1 Fees payable to Council for the undertaking of all work involved in assessing, determining and finalising the application must be paid at the time of lodgement and will be as per Councils Adopted Fees & Charges for the current financial year. These fees are exclusively for the determination of a development certificate and the carrying out of critical stage building inspections. Other fees may be payable in accordance with Council's adopted Fees & Charges.

5.2 Please note all fees are reviewed annually and may change as of 1 July each year. The fee payable will be based on those applicable on the day on which the Contract is executed.

5.3 Any additional or re-inspections required as a result of unfinished or non-compliant work will incur additional charges based on the rates of inspection applicable for the current financial year.

5.4 Any re-inspections for building works must be paid for at the time of booking the inspection.

6. RESPONSIBILITIES OF THE CLIENT

The Client, in appointing Goulburn Mulwaree Council as the Certifier agrees to:

6.1 Provide all relevant drawings, plans, documents and any other related information or documents at the request of the Certifier to fulfil its obligations under this agreement.

6.2 Ensure that all documents and information provided by the Client are complete, current and accurate. In that regard, the Client acknowledges that the Certifier is entitled to rely on information and documents provided by the Client. The Client indemnifies the Certifier from any costs, expenses, losses, damages, claims, liability, demands, suits and proceedings suffered or incurred by, or made against, the Certifier in respect of the Certifiers reliance on the documents supplied by or on behalf of the Client or in relation to any third party placing any reliance on the performance of the Certifiers services under this Agreement.

6.3 Ensure that a Construction Certificate or Complying Development Certificate has been issued prior to the commencement of any works.

6.4 Provide Council a completed Notice of Commencement not less than two days before the commencement of any building works.

6.5 Where the Client is not carrying out the building work as owner-builder, the Client must have appointed a principal contractor for the building work who is the holder of a contractor licence (where residential building work is involved). The Client must notify the PC of the appointment of the principal contractor and also notify the principal contractor of any critical stage inspections and other inspections required to be carried out for in respect of the building work.

6.6 Where the work is being carried out by an owner-builder, provide a copy of the builder permit required under the Home Building Act 1989 to the Certifier before the commencement of any work.

6.7 Pay all fees for services provided by the PC or such fees and charges as required by another authority, e.g. FRNSW.

6.8 Ensure that arrangements are made for Council to carry out inspections of the building works at various stages as indicated in Council's Notice of Inspections. The owner or principal contractor must provide Council with a minimum of 48 hours' notice (excluding weekends and public holidays) prior to each inspection. Inspections must be booked via (02) 48 3234 444.

6.9 Ensure that building work is ready for inspection by the agreed inspection date and time. Where a reinspection is required as a result of defective or incomplete works, the Client shall make payment of the appropriate reinspection fee as prescribed in Council's Adopted Fees and Charges.

6.10 Where an inspection is required, the Client MUST ensure the relevant stamped approved plans and specifications and other required details are on-site and/or available to the Certifier. For example, where a timber floor, roof or wall frame inspection is required, the relevant information must be provided such as roof truss specifications, tie-down and joint schedules, roof and wall bracing plans and specifications, timber sizes and the like.

6.11 Ensure that the site is accessible for the PC to carry out its contractual obligations.

6.12 Use suitably qualified and experienced contractors for all aspects of the Building Work.

6.13 Comply with any Written Direction Notices that the PC issues.

6.14 Act in good faith, in accordance with the Act, and in a cooperative manner

6.15 Before booking a final inspection and/or Occupation Certificate the client shall provide to Council the certificates listed in the Schedule of PC Requirements or otherwise requested by the certifier.

6.16 Ensure that the erection of the building and/or works are in accordance with the development consent and construction certificate. Any modifications to approved works shall have the prior approval of the consent authority and the certifier.

6.17 Provide the PC specialist reports, plans, specifications, compliance certificates and certification of materials, processes or works as requested. Additional documents we may request (where necessary) may include but are not limited to engineer's plans, engineering reports, engineering certification, Compliance Certificates, Fire Safety Certificates, Identification Surveys and evidence of suitability etc..

6.18 The applicant acknowledges that it is the applicant's responsibility (and that of your builder and/or subcontractors) to ensure that the applicant complies with all relevant legislation, consents, certificates and approvals relating to the subject development.

7. CONTRACT TERMINATION

7.1 This contract will automatically terminate upon the expiration of five (5) years from the date of this contract unless Council and the applicant have entered into a written contract to vary the duration of the contract and the applicant has paid all relevant fees; or

7.2 As soon as the PC has issued a Final or Whole Occupation Certificate for all building and development work the subject of this contract, the contract will automatically terminate; or

7.3 If the Client breaches the contract in any respect; or

7.4 Where Council is unable to issue the Construction Certificate or Complying Development Certificate within six (6) months from the date of execution of this contract.

8. DICTIONARY

Registered certifier means a person who is registered under the Building and Development Certifiers Act 2018 and whose registration is in force.

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.

BCA means the Building Code of Australia.

BDAC Act means the Building and Development Certifiers Act 2018.

Certification work means:

- the exercise of a function of a certifier (including a principal certifier) specified in section 6.5 of the Environmental Planning and Assessment Act 1979,
- the determination of an application for a strata certificate within the meaning of the Strata Schemes Development Act 2015,
- the inspection of swimming pools under Division 5 of Part 2 of the Swimming Pools Act 1992 and the issuing of certificates of compliance and notices under that Division,
- the exercise of any other function of a registered certifier under the certification legislation or under another Act or law,
- any other work of a kind prescribed by the regulations, but does not include work of a kind that is excluded from this definition by the regulations.

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 2021.

EP&A Certifier Regulation means the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Principal Certifier (PC) for building work means the certifier appointed as the principal certifier for the building work under section 6.6(1) of the EP&A Act.

Note: Council Certifiers, as the PC cannot be involved in the design of the building/development works. When Council has been appointed as the PC, a change of PC can only be undertaken upon agreement of Council or as determined by NSW Fair Trading.

Occupation Certificate (OC) means an Occupation Certificate within the meaning of the EP&A Act.

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

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

END OF TERMS AND CONDITIONS

Information about registered certifiers – building surveyors and building inspectors

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 classes of **building surveyor** or **building inspector**, working in either the private sector or for a local council.

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 before any certification work² is carried out.
- Communicate with your builder to ensure the certifier is notified when work reaches each stage. If a mandatory inspection is missed, the certifier may have to refuse to issue an occupation certificate.
- Follow any written direction issued by the certifier and 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 building surveyor do?

Registered **building surveyors** issue certificates under the *Environmental Planning and Assessment Act 1979* (construction certificates, complying development certificates and occupation certificates), act as the **principal certifier** for development, and inspect building work.

The principal certifier will attend the site to carry out mandatory inspections at certain stages. When construction is complete, the certifier may issue an occupation certificate, which signifies that the work:

- is 'suitable for occupation' – this does not necessarily mean all building work is complete
- is consistent with the approved plans and specifications
- meets all applicable conditions of the approval.

The certifier does not manage or supervise builders or tradespeople or certify that the builder has met all requirements of the applicant's contract with the builder.

What does a registered building inspector do?

Registered **building inspectors** carry out inspections of building work³ with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

² Upfront fee payment is required for any work to determine an application for a development certificate or carry out a function of a principal certifier.

³ Building inspectors may inspect class 1 and 10 buildings under the Building Code of Australia; that is, houses, duplexes and the like; garages and sheds; and structures such as swimming pools, retaining walls and fences.

Principal certifier enforcement powers

If the principal certifier becomes aware of a non-compliance with the development approval, the certifier must, by law, issue a direction to you and/or the builder, requiring the non-compliance to be addressed. If it is not, the certifier must notify the council which may take further action.

The certifier is also required to respond appropriately if a complaint is made about the development.

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.