

CONTRACT TO PROVIDE SUBDIVISION CERTIFICATION WORK



1. Introduction

This contract has been developed to appoint a Principal Certifier in accordance with Part 6.12(1) (for subdivision work) of the Environmental Planning and Assessment Act 1979.

2. Application Details

Name	
Address	
E-mail Address	
Contact Number	
Appointment Made By	Owner Person having the benefit of the Approval

Note:

The Owner or Person having the benefit of the Development Consent or Complying Development Certificate can appoint a Principal Certifier.

Applicant must also complete / sign Parts 3 and 6 of this Contract.

3. Development of the Site and Works to be Undertaken

Development Description	
Address / Lot and DP	
Approval Reference and Date	
Consent Authority	Wollondilly Shire Council

4. Plans, Specifications, Documents

Refer to the approved plans and referenced documents approved as part of the Development Consent.

5. Details of the Certification Work to be carried out

This appointment relates to the nomination of Principal Certifier under Division 6.4 of the EP&A Act for Subdivision work. Nomination includes the function of performing critical stage inspections and payment of Councils fees & charges.

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6. Owner / Applicant Declaration

As the owners or person having the benefit of the Development Consent stated on this form, I appoint Wollondilly Shire Council to provide the Subdivision certification works selected (as per Item 5) of this Contract.

- I declare that all the information provided within this Contract is, to the best of my knowledge, true and correct.
- I understand I am entering into a contract with Wollondilly Shire Council under this appointment.
- I have read, understood and accept the terms and conditions contained in this Contract and have read the documents accompanying this contract and understand the roles and responsibilities of both myself and Council (the Registered Certifier).

Signed by all Owner(s)

Date

7. Registered Certifier Details

Name	Wollondilly Shire Council
Address	Frank McKay Building, 62-64 Menangle Street, Picton NSW 2571
Postal Address	PO Box 21, Picton NSW 2571
E-mail Address	council@wollondilly.nsw.gov.au
Contact Number	(02) 4677 1100

8. Council's Declaration

Once this contract is satisfactorily completed and signed by the Applicant / Owner, accompanied by the payment of the relevant fees, Wollondilly Shire Council considers this contract to be appropriately executed. The date on which the contract is made, will be the date of signature when signed by the Owner OR the date of receipt of payment of fees for the selected Subdivision Certification Work.

Signed on behalf of Council Under Delegation _____

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9. Service Fees and Charges

All fees and charges mentioned in this Agreement are based on Wollondilly Shire Council's Fees and Charges published on its website.

The fees for inspections and certification works are as quoted by Wollondilly Shire Council and are payable upon appointment. All fees are inclusive of GST.

Additional inspections required due to staging of works or variations in the construction sequence may attract an additional fee.

Re-inspections of works arising as a result of incomplete or unsatisfactory mandatory critical stage inspections, or other inspections, may attract an additional fee.

Where the Owner / Person having the benefit of the consent, the Principal Contractor, requests site meetings or site inspections, in addition to any mandatory critical stage inspection requirement, or other inspection requirement, Wollondilly Shire Council reserves its right to impose or require the payment of an additional fee.

Where the Principal Certifier becomes or is made aware of a matter that requires investigation or site visits not elsewhere dealt with by this Agreement, Wollondilly Shire Council reserves its right to impose or require the payment of an additional fee.

Where additional fees occur, payment is ordinarily required prior to provision of the service. Where the service is completed prior to payment, an invoice will be issued within twenty-one (21) days after the completion of that work.

In circumstances where Wollondilly Shire Council is appointed under this Agreement, and the requisite fee payment is not honoured, the Owner / Person having the benefit of the consent acknowledges and accepts liability for all or any unpaid fees and any associated debt recovery costs plus interest incurred from the time of the appointment.

The Owner / Person having the benefit of the consent acknowledges and accepts that Wollondilly Shire Council, may suspend its work where fees have not been paid.

10. Critical Stage Inspections

The subdivision works shall be inspected by the Principal Certifier at the stages of construction to ensure they comply with Council's Construction Specification and associated approvals.

Refer to Appendix A (attached)

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifier when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours notice is required for inspections.

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Terms and Conditions

This Appointment and Service Agreement (the Agreement) forms part of the Contract for Council to provide Subdivision Certification Work and applies where the Owner or the Person having the benefit of a consent elects to appoint Wollondilly Shire Council to issue a Compliance Certificate, act as the Principal Certifier in accordance with the Environmental Planning & Assessment Act 1979.

The functions under the Environmental Planning & Assessment Act 1979, which are to be carried out as part of this Agreement, relate to the nominated Development Consent, Subdivision Works Certificate or conduct inspections, as issued by Wollondilly Shire Council, including all endorsed and referenced plans and documentation.

The Agreement also encompasses any subsequent Modifications to the abovementioned approvals, subject to payment of applicable fees and charges, and unless otherwise advised in writing.

1. Errors and Omissions

1a - In the event of any negligent act or omission by the Owner / Person having the benefit of the consent, Wollondilly Shire Council shall be indemnified against and released from all liability, damages, compensation, actions, claims, disputes and suites of any kind which may arise before, during or after the period of the agreement in relation to the appointment of Wollondilly Shire Council.

2. Disclaimers

2a - The Owner / Person having the benefit of the consent acknowledges and agrees that the Certifier is not responsible for supervising and managing the Subdivision Work / Project and is not responsible for ensuring the Subdivision Work has been carried out in accordance with the terms and conditions of any contracts the Client has entered into with the Principal Contractor / Sub Contractors responsible for carrying out the Subdivision works or Works that has been completed free from any defects. The Certifier disclaims any and all liability for any loss or damage arising from any latent defects in the Work.

2b - The Owner / Person having the benefit of the consent acknowledges and agrees that the issue of any Practical Completion Certificate by the Principal Certifier does not constitute a representation by the Principal Certifier to the Owner / Person having the benefit of the consent, that the building is free from any latent defects.

2c - All inspections undertaken by the Principal Certifier are based on a visual inspection and do not comment therefore on aspects, faults or otherwise, which are below ground, covered up in any way, or which are not apparent at the time of the inspection, for any parts of the works which are not apparent at the time of the inspection. Any part of the Works that has been or are covered, unexposed or inaccessible will not be inspected and therefore any notification of the result of an inspection will have no reference to those parts.

2d - The Certification Work may be totally or partially suspended by the Principal Certifier during any period in which the Principal Certifier may be prevented or hindered from performing the Services through any circumstances outside the Certifiers reasonable control or where such performance is rendered materially more expensive by such circumstances.

3. Who May Carry Out Certification Work

3a - Council staff delegated to do so or Private Consultants as instructed by those Council staff may carry out Certification work and inspections under this Agreement.

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4. Appointment

4a - The Owner / Person having the benefit of the consent shall keep the Principal Certifier informed of any changes to the details of the Principal Contractor and any relevant insurance required by the Contractor. Failure to meet this obligation shall result in the Owner/Person having the benefit of the consent indemnifying Wollondilly Shire Council against any losses suffered as a result of noncompliance with any legislative requirements.

4b - Wollondilly Shire Council shall not be responsible for any damages or costs associated with the Principal Certifier's inability to issue an Compliance Certificate or conduct further inspections due to, but not limited to, the following:

- Non-compliance with a condition of the Development Consent
- Missed or defective mandatory critical stage inspection, or other inspection,
- Non-compliance with Subdivision Works Certificate or Compliance Certificate endorsed plans or documentation, and/or
- Failure to pay the required fees.

5. Structural Engineering and Other Specialist Details

5a - From time to time Council may request structural or other specialist Engineering inspections or certification to be undertaken for the works.

6. Inspection Bookings / Requirements

6a - The Owner / Person having the benefit of the consent acknowledges that certain mandatory critical stage inspections, and other inspections of the building works, are required to be carried out by the Principal Certifier.

6b – Wollondilly Shire Council, where appointed as the Principal Certifier, shall notify the Owner / Person having the benefit of the consent of any mandatory critical stage inspection requirements, and any other inspection requirements, in accordance with of the Environmental Planning and Assessment Act 1979. The mandatory critical stage inspection requirements, and other requirements, are generally listed in the Appendix.

6c - The Principal Certifier will undertake inspections of the relevant building works during construction, and prior to the issue of a Practical Completion Certificate, so as to ascertain and confirm compliance with the relevant Council Approval, design specification and/or other relevant or applicable standards for construction.

6d - The Owner / Person having the benefit of the consent authorise right of entry to the property, and any works the subject of Development Consent, by any certifying authority, registered certifier or other person, arranged by or employed by Wollondilly Shire Council to carry out any mandatory critical stage inspections, or other inspections, as deemed necessary or required by the Principal Certifier.

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6. Inspection Bookings / Requirements (continued)

6e - The Owner / Person having the benefit of the consent acknowledges that it is the Principal Contractor's responsibility pursuant to the Environmental Planning & Assessment Regulations 2021 to make suitable arrangements with the Principal Certifier to carry out any mandatory critical stage inspection, by calling Wollondilly Shire Council's nominated officer.

6f - The Owner / Person having the benefit of the consent acknowledges and accepts that works must not and cannot proceed to any subsequent stage of construction prior to obtaining a satisfactory inspection result from the Principal Certifier for each relevant stage of construction.

6g - The Principal Certifier will provide confirmation of the outcome of any mandatory critical stage inspection, or other inspection, as soon as practical after the inspection has been completed.

6h - The Owner / Person having the benefit of the consent acknowledges and accepts that a failure to request the Principal Certifier to carry out a mandatory critical stage or other inspection may prejudice and possibly prevent the issue of Compliance Certificate in respect of the works.

7. Third Party Certification of Works

7a - To ensure compliance with the Development Consent, Subdivision Works Certificate or Compliance Certificate, the Owner / Person having the benefit of the consent acknowledges that the Principal Contractor / Owner Builder may be required to submit third party certification from a suitably qualified person in a specific field (e.g. structural engineer) to the Principal Certifier demonstrating a specific matter or element of the building works complies with any relevant standard.

The Principal Certifier will advise when this is required by inspection result or written documentation. Such certification is required to be prepared by a suitably qualified/experienced person and must reference the relevant provisions of the Building Code of Australia, Australian Standards and Development Consent, Construction Certificate or Complying Development Certificate endorsed plans and documentation. This certification is in addition to any mandatory critical stage inspection, or other inspection requirements required to be carried out by the Principal Certifier.

8. Missed Inspections

8a - Where a mandatory critical stage inspection, or other inspection, has been missed, the Principal Contractor / Owner Builder must, within two (2) days of becoming aware that the inspection has been missed, advise the Principal Certifier in writing as to the circumstances causing the inspection to be missed and must supply to the Principal Certifier, all or any documentation requested by the Principal Certifier concerning the unavoidably missed inspection. No further building work shall proceed until approval has been granted by the Principal Certifier.

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9. Compliance Certificate (Practical Completion Certificate)

9a - A Compliance Certificate can only be issued by the Principal Certifier.

9b - The Owner / Person having the benefit of the consent acknowledges and accepts that the Compliant use of the whole or any part of a new works, or change of an existing use/classification, must not occur unless a Practical Completion Certificate has been issued in relation to the works.

9c - The Owner / Person having the benefit of the consent acknowledges and accepts that the Environmental Planning & Assessment Act 1979 contains penalty provisions for use of uncertified works.

9d - The Owner / Person having the benefit of the consent acknowledges and accepts that works that are not consistent with, or are carried out not in accordance with the relevant Development Consent or Subdivision Works Certificate, may result in the Principal Certifier refusing to issue a Practical Completion Certificate.

10. Work, Health and Safety

10a - Work Health and Safety legislation imposes a duty to ensure the health and safety of all persons on a construction site (a workplace). The statutory obligation extends to the Owner / Person having the benefit of the consent / Principal Contractor / Owner Builder and Person(s) conducting a business, on a construction site under this Agreement. Wollondilly Shire Council requires, as part of this Agreement, that the Owner / Person having the benefit of the consent / Principal Contractor / Owner Builder and/or Person conducting a business, undertakes to take all steps reasonably practicable to ensure the health and safety of any certifying authority, registered certifier or other person, employed by or contracted to Wollondilly Shire Council, whilst that person is carrying out work on a construction site.

10b - The Owner / Person having the benefit of the consent acknowledges and accepts that Wollondilly Shire Council may suspend services where it believes that the health and safety of any certifying authority, registered certifier or other person employed by or contracted to Wollondilly Shire Council is at risk.

10c - The Owner / Person having the benefit of the consent acknowledges and accepts all liabilities that arise as a result of any duty imposed to ensure the health and safety of any certifying authority, registered certifier or other person, employed by or contracted to Wollondilly Shire Council, whilst that person is carrying out work on a construction site.

11. Miscellaneous

11a - The Owner / Person having the benefit of the consent must notify the Principal Certifier in writing of any change in the details or address of the Principal Contractor / Owner Builder.

11b - This agreement and associated fee services shall expire two (2) years after the date of the agreement, where upon Wollondilly Shire Council may cancel the agreement.

11c - Wollondilly Shire Council may terminate this agreement or commence legal proceedings if there is a breach of the terms of this Agreement.

11d - The scope of works covered by the Agreement is limited to building works described in the SWC (Subdivision Works Certificate).

Privacy Policy

Any personal information provided by you on this form will be used by Wollondilly Shire Council or its agents to process this application. The provision of this information is voluntary, however, if you do not provide the information, Council will be unable to process your application. This information will be stored in Council's records management system. Once collected by Council, the information can be accessed by you and may also be available to third parties pursuant to Government information (Public Access) Act 2009.