

Contract for the Carrying out of Certification Work (Subdivision)



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

📍 Civic Centre, 68 Elizabeth Street, Moss Vale NSW 2577 (PO Box 141, Moss Vale NSW 2577)

☎ (02) 4868 0888 ✉ mail@wsc.nsw.gov.au

PART A: INTRODUCTION

This is a Contract between Wingecarribee Shire Council (the Council) and the Client (as nominated below).

By virtue of the *Environmental Planning & Assessment Act 1979* 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 Contract on behalf of the Council.

The Client seeks to engage the Council as the Principal Certifier (PC) to perform certain certification work in accordance with the terms set out in this Contract.

* Refer to Part E for particulars of Certification Work.

PART B: PARTIES TO THE CONTRACT

1. **The Council:** WINGECARRIBEE SHIRE COUNCIL
2. **The Client** (for whom the certification work will be carried out)

PART C: Client Details

Note: The person having the benefit of the Consent, so as to be able to appoint the PC, may be the owner or an applicant authorised by the owner but may NOT be the contractor, unless the contractor is the owner of the land.

Name of Client:			
Contact Name:			
Postal Address:			
Locality:		Postcode:	
Business Phone:		Mobile Phone:	
Email:			

PART D: Description of the Development

Description of the development (e.g. 2 lot subdivision)			
Property Details			
Property Number:		Lot/s:	
		Sec:	
Street Number:		Street/Road Name:	
Locality:			

PART E: Details of Approvals

Development Consent Number:		Date Issued:	
Subdivision Works Certificate No:		Date Issued:	

Working with you

PART F: CERTIFICATION WORK TO BE PERFORMED

This Contract relates to the following Certification Work (please indicate by 'X' which of the following applies):

Determination of application for, and issue of, a Subdivision Works Certificate*	
Undertaking the functions of the Principal Certifier (PC) for the development (Refer to Attachment A for description of PC functions and responsibilities of the Client)	
Determination of application for, and issue of, a Strata Certificate*	
Determination of application for, and issue of, a Subdivision Certificate*	

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

PART G: CLIENT DECLARATION AND SIGNATURE

Please tick 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 before or at the time of the lodgement of an application for a Subdivision Works Certificate and/or before the Council commences to carry out any of the functions as the PC.		
I/We agree to provide all documents that the Council may reasonably request for it to perform the function of the PC.		
I/We agree to provide Council with access to the development site.		
I/We agree to notify Council of the appointment of the principal contractor.		
I/We agree to notify the principal contractor of any mandatory hold point inspections required to be carried out in respect of the subdivision work.		
I/We acknowledge that I/we have received and understand the description of services as outlined within the Contract.		
I/we have freely chosen to engage the particular certifier.		
I/we have read the contract and any document accompanying the contract and understands the roles and responsibilities of the client and the registered certifier.		
Client Name	Client Signature	Date

PART H: THE CERTIFIER (Who will carry out the Certification Work) - Council to complete

Council's Development Engineers are not required to be registered under the *Building Development and Certifiers Act 2018* and are therefore not listed on the NSW Fair Trading register.

PART I: DATE OF CONTRACT - Council to complete

This contract is made on the date of:	
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PART J: COUNCIL SIGNATURE - Council to complete

Name:		
Position:		
Signed (on behalf of Wingecarribee Shire Council):	Date:	

PART K: FEES AND CHARGES

Fees payable to Council for the undertaking of all work involved in assessing, determining and finalising the application will be as per Council's Adopted Fees & Charges Policy for the current financial year. Fees relating to inspections for civil works will be invoiced to the nominated party on a weekly basis following the inspection. Other fees may be payable in accordance with Council's adopted Fees & Charges Policy. 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 by both parties. Any additional inspections required as a result of Council being unable to issue a compliance certificate, subdivision certificate or due to unfinished work will incur additional charges based on the rates of inspection applicable for the current financial year. A Council Fee Estimate may be obtained by contacting Customer Service 02 4868 0888 or mail@wsc.nsw.gov.au.

PART L: MYINSPECT, CIVIL WORKS AND RE-INSPECTION PAYMENTS

Any inspections for subdivision and civil works undertaken will be invoiced to the applicant or the nominated party identified below on a weekly basis in accordance with Council's Adopted Fees and Charges schedule current as at the time of the inspection. Council's payment terms are 30 days.

NOTE: If the applicant is not responsible for the payment of invoices for inspections, please complete the following authorisation for Council's records (or alternatively provide a separate authorisation from the nominated company/person)*.

*It is expected by Council that any inspections booked through MyInspect for this development has the authority of the responsible party subject to this authorisation.

PART M: AUTHORISATION FOR INVOICE

Invoices issued by Wingecarribee Shire Council for payment of MyInspect inspections associated with this development as part of this "Contract for the Carrying out of Certification Work" should be addressed as follows:

Company Name:			
Contact Name:			
Postal Address:			
Locality:		Postcode:	
Business Phone:		Mobile Phone:	
Email:			

Acknowledgment by party responsible for payment of invoices:

Name:			
Position:			
Signed:		Date:	

PART N: STATUTORY OBLIGATIONS

This contract is accompanied by an information sheet prepared by NSW Fair Trading pursuant to Clause 3 of the *Building and Development Certifiers Regulation 2020*, addressing the following:

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

ATTACHMENT A: PRINCIPAL CERTIFIER FUNCTIONS

1. Introduction

This is a contract between Wingecarribee Shire Council (WSC) ("Council") and the person/s (hereinafter referred to as "the client") whose name/s and signature/s appear on the application form.

The contract relates to an application from the client to engage Council to provide certification services; including the appointment of Council as the Principal Certifier (PC) in order to assess and determine the application/s the subject of this contract and carry out mandatory hold point inspections of the subdivision works and determination of application/s for Subdivision Certificates.

This Attachment sets out the terms, conditions and responsibilities of the Client and the Council.

2. General

The *Environmental Planning and Assessment Act 1979* (EP&A Act) requires the appointment of a Principal Certifier (PC) to be responsible for the carrying out of mandatory hold point subdivision inspections and subsequent issue of the Subdivision Certificate.

The *Environmental Planning and Assessment Act 1979* prohibits the commencement of the subdivision works in accordance with a development consent until:

- A Subdivision Works Certificate has been issued;
- A PC has been appointed and the Client has appointed a principal contractor for the subdivision work. The Client must notify the PC of the appointment of the principal contractor and also notify the principal contractor of any mandatory hold point inspections and other inspections required to be carried out for in respect of the subdivision work,
- The PC has, no later than two days before the subdivision work commences, notified the consent authority of his/her appointment and notified the Client of any mandatory hold point inspections and other inspections that are required to be carried out in respect of the subdivision work, and
- The Client has given at least two days' notice to the Council (and the PC if that is not the Council) of the person's intention to commence subdivision work.

3. 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.

Certification work means:

- (a) 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*,
- (b) the determination of an application for a strata certificate within the meaning of the *Strata Schemes Development Act 2015*,
- (c) 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,

- (d) the exercise of any other function of a registered certifier under the certification legislation or under another Act or law,
- (e) 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.

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

EP&A Regulation means the Environmental Planning and Regulation 2000

Principal Certifier (PC): The PC for subdivision work means the certifier appointed as the principal certifier for the subdivision work under section 6.12(1) of the EP&A Act. A PC may either be Council or an registered private certifier (except in certain circumstances).

Note:

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.

4. Service provided and responsibilities of Council

Under the EP&A Act a certifier including the principal certifier (PC) has a range of functions, including:

- (1) In relation to subdivision work:
 - (a) Issuing subdivision works certificates for subdivision work,
 - (b) Carrying out inspections of subdivision work;
 - (c) Issuing subdivision certificates (whether or not the subdivision involves subdivision works), but only if—
 - (i) the certifier is a council or is a registered certifier in a case in which an environmental planning instrument authorises a registered certifier to issue the certificate, and
 - (ii) in the case of a subdivision that involves subdivision works—the certifier is the principal certifier.
- (2) A certifier also has any other functions conferred or imposed on the certifier under the EP&A or any other Act

Council, as the PC will:

- 4.1 Ascertain, before any subdivision work commences, that a subdivision works certificate has been issued for the work.
- 4.2 Carry out mandatory hold point inspections of the subdivision work as prescribed within Councils Engineering Design and Construction Specifications and Drawings before issuing the Subdivision Certificate for the subdivision work. The schedule of inspections will be contained within Council's letter of acceptance of PC appointment.
- 4.3 Make a record as required by the EP&A Regulation of all inspections and provide a copy to the owner or their representative. Note: Inspections will be carried out Monday to Friday (inclusive) only and excludes Public Holidays.
- 4.4 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.
- 4.5 Notify the Client if any additional fees for inspection and 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 completely ready for the booked inspection or as a result of defective works.

- 4.6 Council will determine whether any inspection (other than the last mandatory hold point 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. Council will also notify the principal contractor of the missed inspection.
- 4.7 Assess applications and issue determinations for Subdivision Certificates in the prescribed form.
- 4.8 Ensure that any preconditions required by a development consent are met for the work before the issue of a subdivision certificate.
- 4.9 Without limiting the compliance actions that Council may take, Council may:
 - a) Attend the site to inspect any issue of concern relating to the development.
 - b) Cause correspondence to be issued to any person.
 - c) 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.
 - d) Issue Directions and Orders under the EP&A Act.

For further information on the PC Contract and matters relating to the booking of inspections, please contact Council's MyInspect booking system 1300842361 or my.inspect@wsc.nsw.gov.au.

5. Responsibilities of the Client

The Client, in appointing Wingecarribee Shire Council as the PC agrees to:

- 5.1 Provide Council a completed Notice of Commencement not less than two days before the commencement of any works.
- 5.2 Pay all fees for services provided by the PC or such fees and charges as required by another Authority, e.g. Fire and Rescue NSW.
- 5.3 Ensure that arrangements are made for Council to carry out inspections of the subdivision works at various stages indicated in Council's letter of acceptance of PC appointment. The owner or principal contractor must provide Council with a minimum of 24 hours' notice (excluding weekends and public holidays) when each inspection is ready to inspect. Inspections must be booked through the MyInspect booking system 1300842361 or my.inspect@wsc.nsw.gov.au prior to 3pm the day before the inspection is required.
- 5.4 Ensure subdivision work is ready for inspection by 9.30am on the day of inspection for AM inspections and 12:30pm for PM inspections. 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.
- 5.5 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 Council Principal Certifier.
- 5.6 Before booking a final inspection and/or Subdivision Certificate the client shall provide to Council the certificates listed in the schedule of PC requirements.
- 5.7 Ensure that the works are in accordance with the development consent and subdivision works certificate.

- 5.8 Provide the PC specialist reports, plans, specifications, compliance certificates and certification of materials, processes or works as requested.
- 5.9 The applicant acknowledges that it is the applicant's responsibility (and that of your principal contractor and/or sub-contractors) to ensure that the applicant complies with all relevant legislation, consents, certificates and approvals relating to the subject development.

6. Contract Termination

- 6.1 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.
- 6.2 As soon as the PC has issued a Subdivision Certificate for subdivision work the subject of this contract, the contract will automatically terminate.

Privacy Statement

In lodging this form, you are providing personal information such as your name and contact details. The personal information that Council has collected or is collecting from you is personal information for the purposes of the *Privacy and Personal Information Protection Act 1998* (PPIPA). Your personal information will be handled in accordance with the PPIPA and Council's [Privacy Management Plan](#). For further information regarding Council's privacy obligations, see [Privacy Guidelines](#).

Purpose of collection and intended recipients: The personal information in this form will be used and disclosed for the purpose of communicating with you regarding your application, facilitating Council's exercise of its functions under the *Local Government Act 1993*, placing the application on public exhibition and publishing the application online on Council's DA tracker (if applicable). Intended recipients of this information include Council officials, contractors and persons granted lawful access under the *Government Information (Public Access) Act 2009*.

Supply: Supply of your personal information is required by the applicable legislation. If you do not provide the requested information (or any part of it) your application may not be accepted.

Storage and access/correction: Your personal information is being collected and will be stored by Wingecarribee Shire Council, 68 Elizabeth Street Moss Vale NSW 2577. This form will be placed on a relevant file and/or recorded in Council's electronic document and records management system. You may make application to access or amend your personal information. Any such application will be handled in accordance with the PPIPA.