

## Appointment of Council as Principal Certifier – Contract for Certification Work

<b>Advisory Note</b>		
An incomplete form may result in rejection of your application. Application fee must accompany application – Refer to Schedule of fees and charges		
<b>Development Site Address</b>		
Street Address:		
Suburb:		Postcode:
Lot:	Section:	DP/SP:
Complying Development Certificate (CDC) Number		Date of Issue:
Construction Certificate Number (CC or CFT):		Date of Issue:
Development Application Number (DA):		Date of Issue:
Development Description as detailed in Consent/Certificate:		
Estimated value of Proposed Works: \$		
<b>Applicant Details</b>		
<b>Note: To be completed by the owner or the person having the benefit of the development consent. The builder cannot complete this form unless they are also the owner of the property.</b>		
Name:		
Mailing Address:	Suburb	Postcode:
Phone:	Mobile No:	
E-mail address:		
<b>If Applicant is a Company: Application form must be signed by two directors or a director and the company secretary. In the case of a proprietary company that has a sole director, that director only must sign and must indicate that he/she is the sole director.</b>		
Signature:	Date:	
Position:		
Signature:	Date:	
Position:		
<b>Compliance with Development Consent</b>		
Have all conditions to be addressed prior to the commencement of works been satisfied?	Yes	No
<b>Note: If NO work must not commence.</b> Please be aware that failure to address these conditions may leave you liable and in Breach of the Environmental Planning and Assessment Act 1979 (as amended). Penalties may include an on-the-spot fine and/or legal action. If you are uncertain as to these requirements, please contact the Certifier or the Development Hub.		

## Builders Details

Who will be doing the Building Works? <b>(If you are an Owner Builder for the residential building work exceeding \$10,000 you must apply for a permit through Fair Trading NSW)</b>	Owner Builder	Owner Builder Permit No: (Copy of Permit to be provided)
	Licensed Builder <b>(Complete Details Below)</b>	
Company/Builders Name:		
Builders Licence No :	ABN:	
Street Address:	Suburb	Postcode:
Phone:	Mobile No:	
E-mail address:		

## Insurance Details

Insurance Certificate of Currency Attached? <b>(Note: If you are using a licensed builder for residential building work exceeding \$20,000 you must obtain Home Building Act Insurance. A certificate of insurance must be provided with this application)</b>	
Yes <input style="width: 20px; height: 20px; border: 1px solid black;" type="checkbox"/>	No <input style="width: 20px; height: 20px; border: 1px solid black;" type="checkbox"/>

**If no - statement attached and signed by each owner of the property that the reasonable market cost of the labour and materials to be used is less than \$20,000.**

## Responsibilities of the Principal Certifier

Quality of Service:  
 Tamworth Regional Council will carry out Certifier and inspection services in a professional manner and in accordance with the requirements of the Environmental Planning & Assessment Act 1979 and Council's Code of Conduct

Inspections:  
 Tamworth Regional Council officers will undertake the Critical Stage Inspections of the work during construction and prior to issuing an Occupation Certificate to ascertain compliance of specified stages of construction with the Development Consent, Construction Certificate, Building Code of Australia and relevant standards of construction. On appointment as the Principal Certifier, Tamworth Regional Council will notify the applicant in writing of the Critical Stage & other Inspections.

Occupation Certificates:  
 A Final Occupation Certificate must be obtained from Council prior to the occupation or use of a new building (or part of a building) or prior to the change of an existing building use/ classification.

An application may be made to Council for a Partial Occupation Certificate which will be considered in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and conditions of development consent. Please note that were a Partial Occupation Certificate is issued, the development must be completed to allow an Occupation Certificate to be issued within 5 years of the date the Partial Occupation Certificate issue date.

Only the Principal Certifier (in this case Council), can issue an Occupation Certificate and *the Environmental Planning and Assessment Act 1979* contains penalty provisions for failing to obtain a required Occupation Certificate. An application for a Partial or Occupation Certificate must be accompanied by a final or interim fire safety certificates as required by the EP&A Regulations, Clauses 80E or 80F for buildings other than Class 1 and 10.

Miscellaneous Requirements:  
 The applicant is required to ensure that valid public liability insurance cover to the value of \$10,000,000 (minimum) is held by the applicant and/or builder.  
 The applicant is required to notify Council, in writing, of any change in the details or address of the applicant or head contractor.  
 Tamworth Regional Council may cancel the agreement if there is a breach of the agreement

## CRITICAL STAGE INSPECTIONS REQUIRED TO BE CONDUCTED BY THE CERTIFIER

Should the building works be completed in parts, and not all aspects of a Critical Stage Inspection be ready, additional inspections maybe required – which may incur a further inspection fee. E.g – where Slabs are prepared separately, requiring separate inspections, two inspection bookings and fees are required.

The following stages of construction are required to be inspected by Council and/or to satisfy conditions of Consent.

### Class 1& 10 – Single Dwellings, Carports, Garages, Sheds, Swimming Pools, Retaining Walls

- After excavation, prior to placement of any footings
- Prior to pouring any in-situ reinforced concrete building element
- Prior to covering of the framework for any floor, wall, roof or other building element Wet Area
- Prior to covering waterproofing in any wet areas
- Prior to covering any stormwater drainage connections
- After the building work has been completed and prior to any occupation certificate being issued in relation to the building
- In the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992) has been erected

### Class 2, 3, or 4 – Flats, Boarding Houses, Residential Parts of Hotels, Motels, Schools

- After the commencement of the excavation for, and before the placement of, the first footing
- Prior to covering of fire protection at service penetrations to building elements that are required to resist internal fire or smoke spread, inspection of a minimum of one of each type of protection method for each type of service, on each storey of the building comprising the building work,
- Prior to covering waterproofing in any wet areas
- Prior to covering the junction of any internal fire-resisting construction bounding a sole-occupancy unit, and any other building element required to resist internal fire spread, inspection of a minimum of 30% of sole-occupancy units on each storey of the building containing sole-occupancy units
- Prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building
- After the building work has been completed and prior to any occupation certificate being issued in relation to the building
- Other .....

### Class 5, 6, 7, 8 or 9 – Office, Shop, Car Park, Hospital, School, Church, Theatres

- After the commencement of the excavation for, and before the placement of, the first footing
- Prior to covering of fire protection at service penetrations to building elements that are required to resist internal fire or smoke spread, inspection of a minimum of one of each type of protection method for each type of service, on each storey of the building comprising the building work
- Prior to covering waterproofing in any wet areas
- Prior to covering any stormwater drainage connections
- After the building work has been completed and prior to any occupation certificate being issued in relation to the building
- Other .....

### Inspection fees:

Inspection fees are required for inspections identified in the boxes above. These fees are based on the construction cost of the development. Please contact Council's development hub to enquire as to the subject inspection fees (Principal Certifier Service Fees) relevant to your development.

Construction Cost: \$..... Inspection Fees: .....

Please note the fee includes the application fee for a Final Occupation Certificate however should an Interim Occupation Certificate be sought, this application will be subject to an additional fee.

### Certification of Works – Certificates of Compliance

To ensure compliance with the Construction Certificate and Building Code of Australia (BCA), the Certifier will confirm that the applicant has provided adequate certification for various parts of construction as noted over the page..

Each certification must:

- Reference the approved Construction Certificate number, property address, relevant provisions of the BCA, Australian Standards and approved drawings.
- Be prepared by a suitably qualified & experienced person to the satisfaction of Tamworth Regional Council.

## Specialist Details that may be required PRIOR to an Inspection being conducted:

The following details (where required) are to be forwarded to Council prior to the relevant stage of construction (as identified in the following list). The details are to be prepared by a suitably qualified person to confirm compliance with the relevant provisions of the BCA and Australian Standards:

- Timber framing details including bracing and tie-downs (if not provided as part of CC or CDC or for changes in details)
- Roof construction or roof truss details (Producer Statement required prior to Frame Inspection)
- Termite control measures (Method & brand of product to be confirmed, if not provided at CC or CDC stage)
- Mechanical ventilation details (where detail was not provided on construction plans)
- Wet area construction details (where detail was not provided on construction plans)
- Details of fire resisting construction (prior to inspection of fire wall if not provided as part of CDC or CC stage)
- Details of essential fire and other safety measures (required prior to inspection of fire measures)
- Sound transmission and insulation details (where detail was not provided on construction plans)
- Details of compliance with development consent conditions (required at relevant stages as identified in the consent)
- As per required by the Council Accredited Certifier (Other documents relevant to the application that were not provided)

## The following items may also be required where requested or required in order to confirm compliance with the BCA or in order to meet a Development Consent condition.

- Survey detailing building setbacks, reduced levels of floors and ridge by a registered Surveyor (where requested)
- Shoring and support for adjoining premises and structures by a structural engineer (construction within 900mm of boundary)
- Certification for piling/screw pier installation
- Structural engineers Design Drawings & Certification for works prepared by a structural engineer
- Retaining wall Design Drawings and Certification by a structural engineer
- Stormwater drainage works by a hydraulic engineer and surveyor
- Hydraulic details (Fire Safety)
- Landscaping Plan (where required by condition of consent)
- Mechanical ventilation by a mechanical engineer
- Termite control and protection by a licensed pest controller
- Waterproofing of wet areas by a licensed water proofer or licensed builder
- Installation of glazing by a licensed builder
- Certification for the Installation of smoke alarm systems by a licensed electrician
- Completion of construction requirements in a bush fire prone area by a competent person
- Completion of requirements listed in the BASIX Certificate by a competent person
- Fire resisting construction systems by a competent person
- Smoke hazard management systems by a competent person
- Essential fire safety and other safety measures by a competent person
- Fire Safety Certificate to confirm items on Fire Safety Schedule are installed and operating
- Certification for the Installation of Waste Water Management System by a suitably qualified person
- Installation of the inclined lift by a suitably qualified person
- Installation of sound attenuation measures by an acoustic engineer
- Installation of Domestic Solid-fuel burning appliance in accordance with BCA and/or Manufacturers Specifications and any Test Certificates issued for the appliance in compliance with AS2918
- Other as requested by the Council Accredited Certifier.....

**Declaration by Owner/s or Person having benefit of consent (all owners must sign declaration):**

**I declare the following;**

- I am the owner or person having the benefit of the development consent, CC, or CDC as stated in this Contract.
- I have freely chosen to engage Council as the principal certifier of the Development.
- I understand that I am entering into a contract with Council as required by section 31(1) of the B&DC Act.
- I acknowledge and accept the 'Terms and Conditions of Contract for Certification Work' provided at Appendix A of this Contract.
- I have read the Contract and any document accompanying this Contract and understand the roles and responsibilities of both the Applicant and Council.
- I declare that all the information provided by me in this Contract is, to the best of my knowledge, true and correct.

Name: _____	Name: _____
Signature: _____	Signature: _____
Dated: _____	Dated: _____

**Councils Agreement to Appointment**

**The relevant details in this agreement have been completed, Home Owners Warranty Insurance Certificate or Owner/Builders Permit or Statement has been provided where necessary and I acknowledge the appointment of Tamworth Regional Council as the Principal Certifier.**

Signature: _____	Date: _____
Officers Name on Behalf of Tamworth Regional Council: _____	

**This form is required to be uploaded to the respective application within the NSW Planning Portal or emailed to [certifiers@tamworth.nsw.gov.au](mailto:certifiers@tamworth.nsw.gov.au)**

*The details provided in this form may contain information that is personal information, which identifies you etc., for the purposes of the Privacy and Personal Information Protection Act 1998. The purpose of collecting this information is to enable the Council to consider matters under relevant legislation, issue related documentation where required and other associated matters as provided by law and will be utilised by Council officers in assessing the proposal and other associated activities. The information may also be made available to other persons where such access is in accordance with the relevant regulations and requirements in this regard. The submission of personal information in this case is required by law and if not provided (wholly or in part) may affect or prevent consideration of the matter by Council. The information will ultimately be stored in Council's record system.*

## Appendix A

### Terms and Conditions of Contract for Certification Work

1. The functions under the EP&A Act relate to the nominated DA and CC, or CDC, as issued by Council, including all endorsed and referenced plans and documentation.
2. Any subsequent modifications to the abovementioned approvals are included, subject to payment of applicable fees and charges, and unless otherwise advised in writing.
3. The Applicant must immediately notify Council as soon as it becomes aware of any variations from the relevant approvals.
4. The person having the benefit of a DA and CC, or a CDC, for development involving building work, must appoint a principal certifier. However, the appointment of a principal certifier must not be made by any person, contractor or the other entity who will carry out the building work (e.g. builder or sub-contractor) unless that person is also the owner (the Applicant) of the land on which the work is to be carried out.
5. The Applicant must provide access to the Development site and all requested plans, specifications and documents that Council may reasonably request during construction of the Development or to enable the performance of the Certification Works.
6. Prior to commencement of the Development, the Applicant must notify Council of the appointment and details of the principal contractor of the Development.
7. The principal contractor, whether licenced – Builder, unlicenced – non-residential work, or Owner-Builder (“OB”), will maintain all supervision and quality control of the Development site during construction works and the Council bears no responsibility for the conduct and performance of those works.
- d) Missed Mandatory Critical Stage Inspections as listed as Critical Stage Inspections, or other inspections, required for the Development;
- e) Non-compliance with DA, CC or CDC endorsed plans, specifications or documentation; and/or
- f) Failure of the Applicant to pay the required fees.

#### Who May Carry Out Certification Work

11. The details and registration of the certifiers employed by Council, any of whom may carry out certification work and inspections under this Contract, can be found on the NSW Fair Trading’s website:

<https://www.fairtrading.nsw.gov.au/>

#### Appointment

12. The Applicant warrants that all information provided by the Applicant in connection with this Contract is accurate and correct. Council will not bear any responsibility for any intentional or unintentional error or omission made by the Applicant.
13. The Applicant warrants that no building works the subject of a relevant DA, CC or CDC, have commenced prior to the appointment of Council under this Contract.
14. Where building works have commenced prior to the appointment of Council, the appointment of Council shall be deemed invalid and this Contract is null and void.
15. A minimum of two (2) days prior to commencement of the appointment of Council, a notice of commencement form is to be completed and sent to Council [development@tamworth.nsw.gov.au](mailto:development@tamworth.nsw.gov.au)
16. The Applicant must keep Council informed in writing of any changes to the details of the principal contractor and when requested by Council provide a copy of any relevant insurance required to be held by the principal contractor. The Applicant indemnifies Council for any damages, claims, liability, actions, loss, delay, costs or expenses incurred or suffered by Council as a result of the Applicant failing to comply with its obligations in this clause 16.
17. The Applicant is responsible for ensuring that a copy of the Home Building Compensation Fund Certificate of Insurance or OB Permit is submitted to Council prior to the commencement of building works, where required by the *Home Building Act 1989*. The appointment of Council to undertake the Certification Works, including the carrying out of required Mandatory Critical Stage Inspections listed, will not commence until this requirement has been met.

#### Indemnity & Release

8. The Applicant releases Council to the fullest extent permitted at law for any damages, claims, liability, actions, loss, delay, costs or expenses incurred or suffered by the Applicant arising out of or in connection with the performance of this Contract including but not limited to any failure of the Applicant to comply with all terms and conditions of this Contract.
9. The Applicant indemnifies Council to the fullest extent permitted at law for any damages, claims, liability, actions, loss, delay, costs or expenses incurred or suffered by Council arising out of or in connection with any act or omission, or breach of this Contract, by the Applicant which arises before, during or after the period of the Contract.
10. Council will not bear any responsibility for any damages, claims, liability, actions, loss, delay, costs or expenses incurred by the Applicant as a result of Council’s inability to issue an Occupation Certificate (“OC”) due to, but not limited to, the following:
  - a) Non-compliance with a condition of the DA, CC or CDC;
  - b) Unsatisfactory final inspection;
  - c) Non-compliance with BASIX commitments;

#### Inspections

18. The Applicant acknowledges and agrees that the Mandatory Critical Stage Inspections listed, and other inspections of the building works, are required to be carried out by Council under this Contract.
19. Council will notify the Applicant of any Mandatory Critical Stage Inspection requirements, and any other

inspection requirements, in accordance with the EP&A Act.

20. Any inspection required to be carried out by Council under this Contract is limited to those parts of the Development that are reasonably and safely accessible when the inspection is carried out. Council may require additional provisions to be made for access, to allow for an appropriate amount of the works to be inspected.
21. The number and type of Mandatory Critical Stage Inspections, as listed as critical stage inspections, required for the Development will be determined by the responsible Council employed certifier.
22. It is the responsibility of the Applicant to notify the principal contractor of the required inspections that are to be carried out in respect of the Development.
23. At the request of the Applicant, Council may undertake inspections of the Development during construction, and prior to the issue of an OC, so to ascertain and confirm compliance with the DA, CC, CDC, Building Code of Australia ("BCA") and/or other relevant or applicable standards for construction.
24. The Applicant authorises right of entry to the Development site, and any building works the subject of DA, CC and/or CDC, by any certifier arranged by or employed by Council to carry out any Mandatory Critical Stage Inspections, or other inspections, as deemed necessary or required by Council.
25. The Applicant acknowledges that it is the principal contractor/OB's responsibility to make suitable arrangements with Council to carry out any Mandatory Critical Stage Inspection, or other inspections, by contacting Council on (02) 4974 2050 or [inspections@ncc.nsw.gov.au](mailto:inspections@ncc.nsw.gov.au). Inspections can be booked up until mid-afternoon (normally 3pm) on the working day prior to the inspection, except in relation to files that are more than two years old, for which 48 hours' notice of a required inspection may be required. The inspection service is not available on weekends and public holidays.
26. The mandatory notice sign provided by Council is to be maintained and displayed while any building work, subdivision work or demolition work is carried out, but must be removed when the work has been completed. The sign is not required for works that are carried out inside an existing building, that do not affect the external walls of the existing building, or that do not affect the external walls of the building.
  - a) The Applicant must ensure that the sign can be:
    - i) easily read by anyone in any public road or other public place adjacent to the Development site,
    - ii) erected in a prominent position on the Development site before the commencement of the work, and
    - iii) be maintained on the Development site at all times until the work has been completed.
  - b) The following details must be completed and displayed on the sign:
    - i) The principal contractor / OB for the Development. This is the person responsible for the overall co-ordination and control of the carrying out of the building work;
    - ii) The business and after-hours phone numbers of the principal contractor / OB; and
    - iii) The development application or complying development application number.
27. A Record of the outcome of any mandatory critical stage Inspection or other inspection can be provided upon request as soon as practical after the inspection has been completed.
28. The Certifier will advise where works are unsatisfactory, and give an instruction about matters to be addressed prior to work proceeding. Advice will also be provided confirming as to whether a re-inspection of defective work will be required prior to proceeding with any additional work.
29. The Applicant must obey, or ensure the principal contractor obeys, any lawful instructions (verbal or written) given by Council.
30. The Applicant acknowledges and accepts that any works must not and cannot proceed to any subsequent stage of construction prior to obtaining a satisfactory Mandatory Critical Stage Inspection result from Council for each relevant stage of construction.
31. The Applicant acknowledges and accepts that a failure to request Council to carry out a Mandatory Critical Stage Inspection, or other inspection, may prejudice and possibly prevent the issue of an OC in respect of the Development.
32. Where appropriate, certain inspections may be conducted concurrently. Examples of these include:
  - a) Waterproofing in wet areas / wall framing / roof framing / stormwater drainage; and
  - b) Wall framing / roof framing / stormwater drainage / final inspection on a garage with no internal linings.
33. Should the Applicant have any questions or doubts regarding concurrent inspections, the Applicant should contact and confirm with Council prior to proceeding with any further works.

#### Structural Engineering and Other Specialist Details

34. When requested by Council, any structural or other specialist engineering details relating to the Development must be forwarded to Council prior to commencement of building works, or the relevant inspection (as advised by Council). Such details are to confirm compliance with the relevant provisions of the BCA, Australian Standards or other relevant Standards of Performance, to the satisfaction of Council.
35. In addition to Mandatory Critical Stage Inspections, and any other inspections, Council may require certification of specialised aspects of a Development. Such certificates will only be required where advised by Council or if Council is unable to be satisfied regarding an aspect of the work in progress. Any required additional certificates will need to be obtained at the Applicant's cost either as work proceeds or prior to the final inspection and issue of an OC.
36. Required additional certificates may include any or all of the following as required to satisfy compliance with approval documents, the BCA, related Australian Standards and associated legislation:
  - a) Peg Out Survey: Certified by a Registered Land Surveyor to confirm the set out of the building
  - b) Identification Survey: Certified by a Registered Land Surveyor to confirm the location of specified constructed elements relative to property boundaries

- c) Levels: Floor and/or roof levels certified by a Registered Land Surveyor reduced to Australian Height Datum (AHD) confirming compliance with the approved plans (to be submitted when specified)
- d) Prefabricated Timber Roof Trusses and Wall Frames: Certified by the Truss/Frame Manufacturer/Supplier as being designed and manufactured to resist the most critical loading effect as determined in accordance with Australian Standard AS1170.0:2002 "Structural Design Actions – General Principles" and other relevant provisions of the Building Code of Australia (to be submitted prior to the wall and roof frame inspection)
- e) Termite Risk Management: Certified by Installer detailing the system installed, location and compliance with Australian Standard AS3660.1 - 2000 "Termite Management – New Building Work" (required prior to the issue of an Occupation Certificate)
- f) Thermal Insulation: Certified by the installer and detailing the type, R-Value and location/s and compliance with Australian Standard AS3999 – 1992 "Thermal Insulation of Dwellings – Bulk Insulation – Installation Requirements"
- g) The Principal Contractor / OB is to provide certification of the installation of all measures required to achieve the BASIX certificate / Energy Efficiency rating of the dwelling as approved by the Consent Authority (to be submitted prior to the issue of an Occupation Certificate)
- h) Windows: Certified by the Window Manufacturer/Supplier as complying with Australian Standard AS2047 – 1999 "Windows in Buildings – Selection and Installation" and/or AS1288 – 2006 "Glass in Buildings – Selection and Installation", as applicable
- i) Wet Area Flashing: Certified by and installer as complying with Australian Standard AS3740 – 2004 "Waterproofing of Wet Areas within Residential Buildings" along with relevant warranty details
- j) Smoke Alarms: Certified by a Licensed Electrician, after installation, as complying with Australian Standard AS3786 – 1993 "Smoke Alarms"
- k) Sound Insulation: A statement from the builder confirming that required airborne sound insulation ratings, impact sound insulation ratings and discontinuous construction of any applicable building element complies with the Building Code of Australia (to be submitted following installation)
- l) Air Conditioning/Ventilation: Certified by the design/installation consultants as complying with Australian Standard AS1668.2 - 1991 "Mechanical Ventilation for acceptable indoor-air quality" (to be submitted following installation)
- m) Bushfire Completion Statement of compliance
- n) Any other third-party certification from a suitably qualified person in a specific field (e.g. structural engineer) when requested by Council to demonstrate that a specific matter or element of the building works complies with any relevant standard. Council will advise when this is required by inspection result or written documentation. Such certification is required to be prepared by an accredited certifier or other suitably qualified /

experienced person and must reference the relevant provisions of the BCA, Australian Standards and DA, CC or CDC endorsed plans and documentation or other relevant Standards of Performance, to the satisfaction of Council.

- o) Additional certificates may also be required under the terms of DA consent or by Council prior to the issue of the OC.

37. The above certification is in addition to any Mandatory Critical Stage Inspection, or other inspection requirements, required to be carried out by Council.

#### Missed Inspections

38. Where a required Mandatory Critical Stage Inspection is missed for any reason, Council is to be notified in writing of that fact and of the circumstances causing the inspection to be missed, within two (2) days of the Applicant becoming aware that the inspection has been missed. Prior to work proceeding, the Applicant must satisfy Council on the basis of appropriate documentary evidence that the work not inspected by Council has been carried out to an acceptable standard and a record of missed inspection is to be completed and issued.

39. Unless Council considers that an inspection was missed because of circumstances that were unavoidable, the provisions of section 6.10 of the EP&A Act preclude the issuing of an OC for the Development.

40. The Applicant acknowledges and accepts that parties who are not appropriately registered cannot perform the role of principal certifier. An inspection by an engineer, or any other qualified party, cannot replace an inspection by Council unless the party is appropriately registered, and Council has agreed to the arrangement in advance of the inspection.

#### Occupation Certificates

41. An OC can only be issued by Council.

42. The Applicant acknowledges and accepts that:

- a) the occupation or use of the whole or any part of a new building, or change of an existing use / classification, must not occur unless an OC has been issued in relation to the building or part;
- b) the EP&A Act contains penalty provisions for use or occupation of a building without first obtaining a validly issued OC;
- c) liability for occupation or use of the whole or any part of a new building, or change of an existing use / classification, rests solely with the Applicant; and
- d) works that are not consistent with, or are carried out not in accordance with the relevant DA, CC, CDC, the BCA, or subject to a missed inspection, may result in Council refusing to issue an OC.

43. Where the Applicant wishes to use or occupy an incomplete development or building, an application may be made to Council for a Part OC. Applications for Part OCs will be considered in accordance with the requirements of the EP&A Act, the DA, CC or CDC, BCA and relevant Australian Standards.

#### Fire Safety Certificates

44. In the case of a building, other than a building of class 1a or 10, a Fire Safety Certificate may be required to be submitted before an OC can be issued for the building.



45. A Fire Safety Certificate for a building or part of a building must contain the following information:
- The name and address of the owner of the building or part;
  - A description of the building or part (including its address);
  - A list identifying each Essential Fire Safety Measure in the building or part, together with the minimum standard of performance specified in the relevant Fire Safety Schedule in relation to each such measure;
  - The date or dates on which the Essential Fire Safety Measures were assessed;
  - The type of certificate being issued (that is, final or interim); and
  - A statement made by or on behalf of the owner of the building to the effect that each Essential Fire Safety Measure specified in the current Fire Safety Schedule for the building to which the certificate relates:
    - has been assessed by a properly qualified person,
    - was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued; and
    - the date on which the certificate is issued.
46. A Fire Safety Certificate must be accompanied by the relevant Fire Safety Schedule for the building.
47. A final Fire Safety Certificate need not deal with any Essential Fire Safety Measure that has been the subject of some other final Fire Safety Certificate or Fire Safety Statement issued within the previous 6 months, unless Council otherwise determines.
- Service Fees**
48. The Applicant must pay all fees for all certification and principal certifier services upon lodgement of any DA, CC, CDC and request for principal certifier appointment applications. All fees are inclusive of GST.
49. All fees and charges are based on [Fees and Charges | Tamworth Regional Council \(nsw.gov.au\)](https://www.nsw.gov.au) at the time of application lodgement.
50. The maximum numbers of inspections Council will perform for the fee paid are as below:
- Low scale residential (including new single or dual occupancy dwellings), new domestic outbuildings, swimming pools and alterations/additions to existing low scale residential development – Maximum 5 inspections.
  - Multiple residential (i.e. three or more residential units) and Class 3 boarding houses – Maximum 15 inspections.
  - Commercial/Industrial – Maximum 7 inspections.
51. An additional fee will be charged for each inspection required beyond the maximum number of inspections provided in clause 50 as set by [Fees and Charges | Tamworth Regional Council \(nsw.gov.au\)](https://www.nsw.gov.au) at the time of the inspection request.
52. The fees quoted provide for Council to carry out one (1) inspection in relation to each inspection listed in the Mandatory Critical Stage Inspections list.
53. Fees for any work arising as a result of any unforeseen contingencies will also be calculated in accordance with [Fees and Charges | Tamworth Regional Council \(nsw.gov.au\)](https://www.nsw.gov.au) at the time of the unforeseen contingency. This includes, but is not limited to:
- additional inspections required due to staging of building works or variations in the construction sequence;
  - re-inspections of works arising as a result of incomplete or unsatisfactory Mandatory Critical Stage Inspections, or other inspections;
  - where the principal contractor, Builder, OB or Applicant, requests site meetings or site inspections, in addition to any Mandatory Critical Stage Inspection requirement, or other inspection requirement, involving additional inspections or provision of professional advice; and
  - where Council becomes or is made aware of a matter that requires investigation or site visits not elsewhere dealt with by this Contract.
54. The Applicant agrees that all fees and costs that Council incurs directly or indirectly by providing / receiving reports, submitting documentation, inspections, or the like, with external parties such as Rural Fire Service, Fire & Rescue NSW, will be payable by the Applicant to Council.
55. Where additional fees occur, payment by the Applicant 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 service and the Applicant must pay by the due date specified in that invoice.
56. In circumstances where the requisite fee is not honoured by the due date for payment, the Applicant acknowledges and accepts liability for all or any unpaid fees and any associated debt recovery costs plus interest incurred by Council from the time of Council's appointment under this Contract.
57. The Applicant acknowledges and accepts that Council, may immediately suspend its Certification Work and any other services where fees have not been paid.
- Work Health Safety**
58. The *Work Health and Safety Act 2011* and *Work Health & Safety Regulation 2017* ("the WHS Law") imposes a duty on the Applicant, or its principal contractor, to ensure the health and safety of all persons on the Development site. The Applicant must ensure that it, or its principal contractor, complies with its obligations under the WHS Law and undertakes to take all steps reasonably practicable to ensure the health and safety of any certifier or other person, employed by or contracted to Council, whilst that person is carrying out work on the Development site.
59. The Applicant acknowledges and accepts:
- that Council may suspend the Certification Works, or any other services, where it considers in its absolute discretion that the health and safety of any certifier or other person, employed by or contracted to Council, is at risk; and
  - all liabilities that arise as a result of any duty imposed to ensure the health and safety of any certifier or other person, employed by or contracted to Council, whilst that person is carrying out work on the Development site.
60. At the request of Council, the Applicant must advise Council of:

- a) any foreseeable hazard arising from the Development that has the potential to harm the health or safety of any certifier or other person, employed by or contracted to Council, when accessing, inspecting or egressing the Development site;
- b) the assessment of any risk that has not been eliminated;
- c) the measures taken to control any such risk; and
- e) any measures that may need to be taken by any certifier or other person, employed by or contracted to Council to control such risk while on the Development site.

#### Termination

- 61. Without limiting any of Council's rights or remedies at law, Council may immediately terminate this Contract where the Applicant breaches any of the terms of this Contract.
- 62. Subject to clause 63, this Contract will expire on the date that the Development is completed. However, the provision of the indemnity and release in accordance with clauses 6 and 7 are continuing obligations and will continue after expiry of this Contract.
- 63 If the Development is not completed within five (5) years from the date the Contract is made, Council may in its discretion terminate the Contract or charge additional fees for any further inspections required to finalise the Development in accordance with [Fees and Charges | Tamworth Regional Council \(nsw.gov.au\)](#) at that time.

## Information about registered certifiers – building surveyors and building inspectors

**Important: this is a summary document only – refer to the following link to ensure you have the latest version of this document - [What certifiers do | NSW Fair Trading](#).**

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)<sup>1</sup>. 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.

<sup>1</sup> Visit [www.fairtrading.nsw.gov.au](http://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 work<sup>2</sup> 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 work<sup>3</sup> with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

---

<sup>2</sup> 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.

<sup>3</sup> 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](http://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](http://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](http://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.