

Development work details continued

Contract value of proposed development work	\$ (as nominated on application for Construction Certificate, Complying Development Certificate, or Subdivision Certificate)
Relevant Development consent or CDC. <i>Complete if application(s) have been determined</i>	Development Consent No.: Determination date:/...../..... Section 96 Modification No.: Determination date:/...../..... Section 96 Modification No.: Determination date:/...../..... CDC No.: Determination date:/...../.....
Construction certificate(s) <i>Not required if a CDC has been issued</i>	Construction Certificate No.: Issue date:/...../..... Construction Certificate No.: Issue date:/...../..... Construction Certificate No.: Issue date:/...../.....

Service details

Fee Schedule <i>(fees to be nominated as per application form)</i>	<p>LCC will undertake all functions and delivery of services in accordance with Appendix A - Standard Terms & References, excluding the costs of any service provided by a third party and any fees for obtaining or lodging documents, except for contingency items (if any) specified below.</p> <p>These fees are exclusively for the determination of a development certificate, the carrying out of inspections and issue of Occupation Certificates. Other fees will also be payable in accordance with LCC's adopted Management Plan. All fees are reviewed annually and may change as of 1 July each year.</p> <p><u>The provision of services arising from unforeseen circumstances (e.g multiple component inspections, re-inspection of defective work) may be subject to additional charges as is provided under Council's Fees & Charges (document available on Council's website).</u></p> <p>Complying development certificate fee \$</p> <p>Construction certificate fee \$</p> <p>Inspection fee (includes all Inspection Advices & Occupation certificates) \$</p> <p>TOTAL CERTIFICATION WORK FEE \$</p>
Principal certifying authority	<p>For the purposes of this agreement the Principal Certifying Authority (PCA) is nominated as:</p> <p><u>Name:</u> Lithgow City Council (LCC) <u>Phone:</u> 02 63 549 999</p> <p><u>Address:</u> PO Box 19 LITHGOW NSW 2790 <u>Fax:</u> 02 63 514 259</p> <p><u>Website:</u> www.lithgow.nsw.gov.au <u>Email:</u> council@lithgow.nsw.gov.au</p> <p>Details of accredited certifiers currently employed by Council can be found on the Building Professionals Board website www.bpb.nsw.gov.au. Accredited certifiers will be deployed, at Council's discretion, to carry out certification work and inspections under this agreement.</p>
Statutory obligations	The Building Professionals Board is the statutory body that accredits the Certifier and administers the <i>Building Professionals Act 2005</i> . Under this Act, information brochures on statutory obligations published by the Board must accompany this contract. At the time of this Agreement, the Board has not published this information.
Authority to enter	By endorsing this agreement the owner hereby grants permission for LCC's accredited certifiers to enter the property /premises to conduct inspections relative to this application.
Terms of Agreement	Standard terms of agreement and references are contained in Appendix A. These should be carefully reviewed to understand the respective roles / responsibilities of each signatory to the agreement and to facilitate the issue of an occupation certificate.
Execution of agreement <i>Documentary evidence to be submitted if signing on owner's behalf</i>	<p>Signed / executed by <u>ALL PROPERTY OWNERS</u> Signed / executed by or on behalf of Lithgow City Council (LCC):</p> <p><u>Owner / Company Signatory Name (Please print)</u> </p> <p>.....</p> <p><u>Owner / Company Signatory Signature</u> Officer Name:</p> <p>.....</p> <p>..... Officer Position & Accreditation No:</p> <p>Dated: Dated:</p>

Privacy & Personal Information Protection Notice – The personal details nominated on this form are collected, held and used by LCC in accordance with the provisions of the Environmental Planning & Assessment Act 1979. Access to this information is restricted to LCC officers and other people authorised under this Act and the Government Information (Public access) Act 2009. You may apply to LCC for access or amendment to the held information and may also request LCC to suppress your personal information from a public register.

Appendix A - Standard Terms & References

1.0 Certifying Authority	<p>The Council (LCC) is a certifying authority and employs accredited certifiers (the Certifier) who are authorised to carry out certification work (being the subject of this Agreement) on behalf of LCC. The applicant (Client) seeks to engage LCC to perform certification work in accordance with the terms set out in this Agreement.</p>
2.0 Interpretation / dictionary	<p><i>Certification work</i> means:</p> <ol style="list-style-type: none"> The determining of an application for a development certificate; The issue of a development certificate; Carrying out the functions of a PCA; Carrying out inspections for the purposes of section 109E(3)(d) of the EP & A Act 1979; Carrying out inspection under section 22 Swimming Pools Act 1992 & issuing certificates of compliance under that Act. <p><i>Development certificate</i> means:</p> <ol style="list-style-type: none"> A certificate under Part 4A of the EP & A Act, being: <ul style="list-style-type: none"> A construction certificate A compliance certificate An occupation certificate A complying development certificate; A compliance certificate under the Swimming Pools Act 1992. <p><i>Accredited certifier</i> means the holder of a certificate of accreditation as an accredited certifier under the BP Act.</p> <p><i>Applicable environmental planning instrument</i> 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.</p> <p><i>Basix</i> means the Building Sustainability Index</p> <p><i>BCA</i> means the Building Code of Australia</p> <p><i>BP Act</i> means the Building Professionals Act 2005</p> <p><i>Contractor licence</i> means a licence issued under the Home Building Act 1989</p> <p><i>EP & A Act</i> means the Environmental Planning & Assessment Act 1979</p> <p><i>EP & A Regulation</i> means the Environmental Planning & Assessment Regulation 2000</p> <p><i>Owner-builder permit</i> has the meaning given to it by the Home Building Act 1989</p> <p><i>PCA</i> means a principal certifying authority appointed under section 109E of the EP & A Act 1979</p> <p><i>Residential building work</i> has the meaning given to it by the Home Building Act 1989</p>
3.0 Fees & charges	<p>The set fees and charges for the determination of a development certificate must be paid to LCC on lodgement of an application for the development certificate.</p> <p>Fees relate to the determination of the development certificate, the carrying out of mandatory inspections and the issue of occupation certificates. Other fees are also payable in accordance with LCC's adopted Management Plan.</p> <p>All fees are reviewed annually and may change as of 1 July each year. The fees payable will be based on those applicable at the time the application for a development certificate is lodged.</p> <p>Applicable fees can be obtained by contacting LCC's Customer Service Staff on 6354 9999, who will provide a written fee proposal for presentation at lodgement.</p>
4.0 Functions of Principal Certifying Authority – General	<p>The certifier will, on behalf of LCC, perform all work that is necessary to comply with relevant statutory requirements, including:</p> <ul style="list-style-type: none"> Not later than two days before any building work or subdivision work commences notify the Client of all inspections that are required to be carried out of the building work or subdivision work. Ascertain, before any building work or subdivision work commences, that a construction certificate or complying development certificate has been issued for the work. Ascertain, before any residential building work commences, that either: <ul style="list-style-type: none"> The principal contractor is the holder of a licence under the Home Building Act 1989 and is covered by appropriate insurance; or Where the work is to be carried out by an owner-builder, that an owner-builder permit has been issued under the Home Building Act 1989 The certifier will either carry out all critical stage inspection of the building work or subdivision work prescribed by the EP & A Regulation or required by the Certifier. The certifier will determine whether any inspection (other than the last critical stage inspection) has not been carried out due to circumstances that were unavoidable, and whether the work that would have been inspected was satisfactory. The certifier will make a record of any such missed inspection as required by the EP & A Regulation and provide a copy to the Client. The certifier will also notify the principal contractor or owner builder of the missed inspection as required by the EP & A Regulation. Determine applications for occupation certificates (see separate terms under this Agreement).

4.1 Compliance functions	<p>The certifier will take such steps as considered appropriate to address any of the following matters relating to the development:</p> <ul style="list-style-type: none"> • Non-compliance with the development consent; • The carrying out of work without development consent; • An unauthorised use of a building; • A breach of a law relating to the carrying out of work or the use of the land; • A threat to the safety of a person or a person's property; • Any other matter the certifier considers is in the public interest to address. <p>Without limiting the actions that the certifier may take, the certifier may:</p> <ul style="list-style-type: none"> • Attend the site or nearby properties to inspect any issue of concern relating to the development; • Confer with any person in relation to any issues of concern; • Cause correspondence to be issued to any person; • Refer any matter of concern to such persons or authorities as the certifier considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency; • Issue notices under section 121H of the EP & A Act.
4.2 PCA responsibilities	<p>As the PCA LCC will:</p> <ul style="list-style-type: none"> • Carry out inspection of the building work (referred to as critical stage inspections); • Advise when third party certification may be required; • Advise upon specific works to be completed or consent conditions to be satisfied before issuing occupation certificate(s); • Issue an interim occupation certificate and final occupation certificate where warranted.
4.3 Critical stage and other building inspections	<p>LCC will undertake building inspections where applicable during the building process. These inspections are generally:</p> <ul style="list-style-type: none"> • After excavation for, and prior to the placement of any footings. • Prior to pouring in situ reinforced concrete building elements. • Prior to covering of the framework of any floor, wall, roof or other building element. • Prior to covering waterproofing in wet areas. • Prior to covering any stormwater drainage connections. • In the case of a swimming pool, after the construction of the swimming pool is completed and the barrier has been erected and before the pool is filled with water. • After building work has been completed and prior to an Occupation Certificate being issued in relation to the building.
4.4 Notice before inspection	<p>The owner or principal contractor must provide LCC with notice (excluding weekends and public holidays) when each inspection is ready to inspect. Notice is generally required 24 hours before the inspection is required.</p>
4.5 Inspection advice	<p>Upon the completion of each inspection LCC will issue the client timely written inspection advice nominating any works deemed necessary to comply with the Building Code of Australia and / or to satisfy the terms of consent. Where a re-inspection is deemed necessary a separate inspection advice will be issued to the client.</p>
4.6 Missed critical stage inspections	<p>If any inspection is not carried out the owner/principal contractor must submit, in writing, the specific reasons why the inspection was missed and provide evidence that the building work complies with the Building Code of Australia.</p>
4.7 Documentation	<p>Prior to the commencement of construction, or during construction, LCC may ask the Owner / Applicant to provide specialist advice / reports, detailed plans, specifications and / or certification in respect to the selection and use of building materials, method of assembly and /or carrying out of works. This advice would include, but not be limited to, civil and / or structural engineering details / certification / specifications, survey reports, construction detail, compliance certificates and fire safety certificates.</p> <p>Any compliance certificates or other certification required must be prepared by an accredited certifier or other suitably qualified or competent person and must reference the relevant provisions of the BCA, Australian Standards and approved drawings.</p>
5.0 Consent holder's responsibilities	<p>The owner must:</p> <ul style="list-style-type: none"> • Ensure that a sign is erected in a prominent position on site showing the name and telephone number (outside of working hours) of the principal contractor (builder) and stating that unauthorised entry to the site is prohibited. • Ensure that the Principal Contractor is advised of the inspections required by LCC and that the directions of LCC are to be observed to ensure compliance with the development consent, construction certificate, BCA and the terms of this Agreement. • Notify LCC at least 24 hours before each stage of construction for which LCC requires an inspection is ready to be inspected (or re- inspected). • Provide any specialist reports, plans, specifications and certification of building materials, process or works requested by LCC at any stage of construction prior to issue of an occupation certificate. • Comply with all relevant legislation, consents and approvals relating to the subject development including but not limited to the following Acts and the regulations made thereunder: <ul style="list-style-type: none"> - The Environmental Planning and Assessment Act 1979; - The Contaminated Land Management Act 1997; - The Protection of the Environment Operations Act 1997; - The Local Government Act 1993; - The Roads Act 1993; - The Road Transport (Safety and Traffic Management) Act 1999. <p>NOTE: To vary and modify a condition of consent requires the submission and approval of an</p>

	<p>application under s96 of the Environmental Planning and Assessment Act 1979.</p> <ul style="list-style-type: none"> • Inform LCC of any known breach of any relevant legislation or matter that may require rectification or remediation as soon as practicable but not less than twenty four (24) hours after the Owner becomes aware of the breach or matter. • Pay the service and inspection fees detailed in LCC's Schedule of Fees and Charges. • Refer to Description of Services and the relevant Fees and Charges.
<p>6.0 Description of services – Application for a Complying Development Certificate (CDC)</p>	<p>The Certifier will, on behalf of the LCC, perform all work necessary to comply with relevant statutory requirements and to facilitate timely determination of the application, including:</p> <ul style="list-style-type: none"> • Provide a blank copy of CDC application form to the Client. • Conduct an inspection of, or arrange for another accredited certifier to inspect, the development site, and prepare a record of the inspection. • If clause 130(2A) or 130(2E) of the EP&A Regulation applies to the application (i.e. where there is an alternative solution relating to fire safety requirements) obtain a compliance certificate or written report from a fire safety engineer or another accredited certifier that satisfies the requirements of clause 130 of the EP&A Regulation. • Assess whether the proposed development satisfies the development standards set out in the relevant environmental planning instrument, development control plan and the EP&A Regulation. • Determine the application and prepare a notice of the determination. • If the application is granted: <ul style="list-style-type: none"> - prepare a complying development certificate - endorse all relevant plans, specifications and other documents - prepare any associated fire safety schedule or fire link conversion schedule - ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid. - ascertain if any contributions plan requires the CDC to be subject to a condition requiring a monetary payment. - issue CDC to the Client together with associated endorsed plans specifications and other approved documents. - forward copies of documents prepared to statutory authorities, including the NSW Rural Fire Service, as required by the EP&A Regulation.
<p>6.1 Description of services – Application for a Construction Certificate (CC)</p>	<p>The Certifier will, on behalf of the LCC, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:</p> <ul style="list-style-type: none"> • Provide a blank copy of CC application form to the Client. • If the development is on a site which affects an existing building, inspect the building and prepare a record of the inspection. • If clause 144 of the EP& A Regulation applies to the development (i.e. alternative solutions for certain fire safety measures), apply to the Fire Commissioner for an initial fire safety report. • If the development is a residential flat building, obtain a design verification from a qualified designer under clause 50(1A) of the EP& A Regulation. • If clause 144A of the EP& A Regulation applies to the application (i.e. where there is an alternative solution relating to fire safety requirements) obtain a compliance certificate or written report from a fire safety engineer. • Assess whether the application satisfies the requirements of the EP&A Regulation, including compliance with the BCA, the development consent and any pre- conditions to the issue of a CC. • Determine the application and prepare a notice of the determination. • If the application is granted: <ul style="list-style-type: none"> - prepare a construction certificate b) endorse all relevant plans, specifications and other documents - prepare any associated fire safety schedule or fire link conversion schedule - ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid. - ascertain if any security or monetary payment or levy under sections 94 or 94A of the EP&A Act are required before the CC is issued. - issue CC to the Client together with associated endorsed plans specifications and other approved documents.
<p>6.2 Description of services – Application for an Occupation Certificate (OC)</p>	<p>The Certifier will, on behalf of the LCC, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:</p> <ul style="list-style-type: none"> • Provide a blank copy of an OC application form to the Client. • Conduct an inspection of the development and prepare a record of the inspection. • If clause 144 of the EP& A Regulation applies to the development (i.e. alternative solutions for certain fire safety measures), apply to the Fire Commissioner for a final fire safety report. • Obtain a final fire safety certificate or interim fire safety certificate as required by the EP& A Regulation. • If the development is a residential flat building to which clause 154A of the EP&A Regulation applies, obtain a further design verification from a qualified designer in relation to the completed works. • Ensure that all BASIX requirements required to be complied with before an OC may be issued have been satisfied, including obtaining any necessary BASIX completion receipt. • If clause 130(2A) or 144A(1) of the EP& A Regulation applied to the development (i.e. where there is an alternative solution relating to fire safety requirements), obtain a further compliance certificate or written report from a fire safety engineer with respect to the completed works as required by clause 153A of the EP& A Regulation. • Assess whether the application satisfies the requirements of the EP&A Regulation, including whether any pre-conditions of the development consent or CDC which are required to be met before an OC may be issued, have been met and (where building work

	<p>has been carried out) whether the work is not inconsistent with the development consent).</p> <ul style="list-style-type: none"> • Determine the application and prepare a notice of the determination. • If the application is granted, prepare an OC and issue it to the Client.
<p>6.3 Description of services – Application for a compliance certificate</p>	<p>The Certifier will perform, on behalf of the LCC, all work that is necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:</p> <ul style="list-style-type: none"> • Conduct an inspection of any building work or subdivision work, if necessary. • Where appropriate, ascertain if a development consent or complying development certificate is in force with respect to building work or subdivision work which is the subject of the application. • If the application is granted, prepare a compliance certificate and issue it to the Client.
<p>7.0 Plumbing & Drainage works - Exclusion</p>	<p>Under the Plumbing & Drainage Act 2011, LCC is appointed as the authorised agent for the plumbing regulator (being the Commissioner for Fair Trading, Department of Finance & Services). As such LCC is required to administer and enforce the provisions of this Act and to provide an inspection service of plumbing & drainage works associated with your development proposal. As this is not a contestable service, the subject Service Agreement does not apply to such works. Plumbing & drainage works include internal / external sanitary drainage, onsite wastewater management systems (including effluent disposal areas), water plumbing, fire services, backflow prevention devices, trade waste devices, stackwork, aerial drainage & alternative water supply and / or reuse systems.</p> <p>LCC may request the owner or his/her representative to provide certain supportive documentation including backflow prevention reports, proposed and / or work-as-executed sanitary plumbing / drainage details, and other hydraulic services details in accordance with Australian Standard AS3500 and Council's Trade Waste Policy.</p>

End of Agreement

Information about registered certifiers - building surveyors and building inspectors GUIDELINE

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 Building Commission 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 Building Commission NSW).¹ This is the applicable document for certification work involving a certifier registered in the class 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 the Building Commission'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 Building Commissioner.

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.nsw.gov.au/departments-and-agencies/building-commission.

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 on the Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission

Questions?

The Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission has information about certifiers, enforcement powers, how to replace a certifier and resolving concerns about a certifier.

The NSW Planning Portal website www.planningportal.nsw.gov.au provides information on the NSW planning and development certification system.

Note, although Building Commission NSW regulates certifiers, it does not mediate in contract disputes and does not regulate the actions of councils. Visit the Building Commission NSW website for more information.

Contact us	
For more information please contact Building Commission NSW:	
T:	13 27 00
W:	nsw.gov.au and search 'Building Commission NSW'