



Agreement for the Performance of Certification Work

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Agreement between

Ku-ring-gai Council(the Council)

and

.....(the Client)

Part A. Introduction

1. The Council is a certifying authority and employs an accredited certifier (the Certifier) who is authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council.
2. The Client seeks to engage the Council to perform certification work on the terms set out in this Agreement.

Part B. Interpretation

Words and terms used in this Agreement are defined in the Dictionary (page 5).

Part C. Parties to the agreement

1. The Council – Ku-ring-gai
2. The Client

Name of Client: <input type="text"/>		
Address: <input type="text"/>		Postal address: <input type="text"/>
Telephone: <input type="text"/>	Mobile: <input type="text"/>	Email: <input type="text"/>

Part D. Certifier's details

These are the details of the employee that Council proposes, at the date of the Agreement, to have carry out the certification work. If the Council later decides to have another employee carry out the certification work, the Council will within two days notify the Client in writing of the name and accreditation number of that other employee.

Name of Certifier: <input type="text" value="Chris Mills"/>	Accreditation number: <input type="text" value="BPB 1251"/>
Name of Certifier: <input type="text" value="Russell Jordan"/>	Accreditation number: <input type="text" value="BPB 1096"/>
Name of Certifier: <input type="text" value="Sashi Sasidharan"/>	Accreditation number: <input type="text" value="BPB 1175"/>

Name of Certifier: <input type="text" value="Warwick Bailey"/>	Accreditation number: <input type="text" value="BPB 1935"/>
Name of Certifier: <input type="text" value="Damian O'Shannassy"/>	Accreditation number: <input type="text" value="BPB 1884"/>
Name of Certifier: <input type="text" value="Gabriel Mafi"/>	Accreditation number: <input type="text" value="BPB 2096"/>
Name of Certifier: <input type="text" value="Dale Martinuzzo"/>	Accreditation number: <input type="text" value="BPB 1842"/>
Name of Certifier: <input type="text"/>	Accreditation number: <input type="text"/>
Name of Certifier: <input type="text"/>	Accreditation number: <input type="text"/>

Part E. Certifier's insurance details

Only complete if the Certifier holds insurance required by the BP Act. In most cases employees of Council do not hold insurance separate from Council

Name of insurer: <input type="text"/>	Address: <input type="text"/>
Policy no./identifier address: <input type="text"/>	Period of insurance cover: From: <input type="text"/> To: <input type="text"/>

Part F: The development

Description of development: (eg: single storey dwelling) <input type="text"/>	Address of development: <input type="text"/>	
Formal particulars of the title of the development site: <input type="text"/>		
Development consent details (tick appropriate box/s and complete as applicable)		
<input type="checkbox"/> Development consent granted by consent authority Name of consent authority <input type="text"/> Development consent no./identifier: <input type="text"/>	<input type="checkbox"/> Development consent given by the issue of a complying development certificate (CDC) Name of certifying authority <input type="text"/> CDC no./identifier: <input type="text"/>	<input type="checkbox"/> Part 4A certificates issued Type of Part 4A certificate issued: <input type="text"/> Name of certifying authority: <input type="text"/> Certificate no./identifier: <input type="text"/>

Date of development consent: <input type="text"/>	Date of CDC: <input type="text"/>	Date of certificate: <input type="text"/>
Details of approved documents		
Details of plans, specifications and other documents approved by development consent/CDC: <input type="text"/>	Details of plans, specifications and other documents the subject of any Part 4A certificate: <input type="text"/>	

Inspections (complete as appropriate)

Any inspections of the development site or the development required under the EP&A Act or the EP&A Regulation will be carried out as follows:

<input type="checkbox"/> Inspections by the Certifier: <input type="checkbox"/> All <input type="checkbox"/> None <input type="checkbox"/> Specific inspections (list): <input type="text"/>	<input type="checkbox"/> Inspections by*:an Accredited Certifier referred to in Part D <input type="text"/> <input type="checkbox"/> All <input type="checkbox"/> None <input type="checkbox"/> Specific inspections (list): <input type="text"/>
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* These are the details of the person that Council proposes, at the date of the agreement, to perform the inspections. In the event that these proposed arrangements change, Council will inform the Client who will be carrying out the inspections as soon as possible after the arrangements are made.

Part G. Certification work to be performed

(Tick one or more boxes as appropriate)

1. Determination of Applications for Development Certificates

- Determination of application for a Complying Development Certificate*
- Determination of application for a construction certificate*
- Determination of application for an occupation certificate*

2. Undertaking the functions of Principal Certifying Authority (PCA)

- Undertaking the functions of PCA for the development*

* Refer to relevant Attachment(s) that contain a Description of Services and the relevant Fees and Charges.

Part H. Fees and charges

1. Development certificates

(a) Set fees and charges

- i. The fees and charges for the determination of an application for a development certificate are set out in Councils current schedule of fees and charges.
- ii. The set fees and charges for the determination of a development certificate must be paid to the Council before, or at the time, an application for the development certificate is lodged with the Council.

(b) Contingency fees and charges

- i. In the case of fees and charges that may be payable for work arising from unforeseen contingencies, the basis on which those fees and charges are set out in Councils current schedule of fees and charges.
- ii. In respect of any unforeseen contingency work provided for under this Agreement, the Council is to send an invoice to the Client within 21 days after the completion of any such work.

2. PCA functions

(a) Set fees and charges

- i. The fees and charges for the Council to carry out the functions as the PCA for the development are set out in Council's current schedule of fees and charges.
- ii. The set fees and charges for the carrying out of the functions as the PCA for the development are to be paid in full before the Council commences to carry out any of those functions.

(b) Contingency fees and charges

- i. In the case of fees and charges that may be payable for work arising from unforeseen contingencies, the basis on which those fees and charges are to be calculated are set out in Council's current schedule of fees and charges.
- ii. In respect of any unforeseen contingency work provided for under this Agreement, the Council is to send an invoice to the Client within 21 days after the completion of any such work.

Part I. Statutory obligations (tick appropriate box)

An information brochure which is to include information about statutory obligations must accompany this Agreement, if one is published by the Building Professionals Board on its website. The Board is the statutory body that accredits the Certifier and administers the *Building Professionals Act 2005*.

- A copy of the Board's Information Brochure is attached
- The Board has not published a brochure as at the date of the Agreement

Part J. Date of agreement

This Agreement is made on theday of20

Part K. Signatures

.....
 Signed/executed by or on behalf of the Council Name

.....
 Signed/executed by or on behalf of the Client

Dictionary

Accredited certifier means the holder of a certificate of accreditation as an accredited certifier under the *BP Act*

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.

BASIX means the Building Sustainability Index

BCA means the Building Code of Australia.

BP Act means the *Building Professionals Act 2005*

Certification work means:

- a) the determining of an application for a development certificate
- b) the issue of a development certificate
- c) carrying out the functions of a PCA
- d) carrying out of inspections for the purposes of section 109E(3)(d) of the EP&A Act
- e) carrying out inspections under section 22 *Swimming Pools Act 1992* and issuing certificates of compliance under that Act

Contractor licence means a licence issued under the *Home Building Act 1989*

Development certificate means:

- a) a certificate under Part 4A of the EP&A Act, being:
 - a construction certificate
 - a compliance certificate
 - a sub-division certificate
 - an occupation certificate
- b) a complying development certificate
- c) a strata certificate issued under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*

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

EP&A Regulation means the Environmental Planning and Regulation 2000

Owner-builder permit has the meaning given to it by the *Home Building Act 1989*

PCA means a principal certifying authority appointed under section 109E of the EP&A Act

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

Attachment: Application for a Complying Development Certificate (CDC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate timely determination of the application, including:

1. Provide a blank copy of CDC application form to the Client.
2. If necessary, request a certificate under section 149 of the EP& A Act.
3. Conduct an inspection of, or arrange for another accredited certifier to inspect, the development site, and prepare a record of the inspection.
4. 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 of the 130 EP&A Regulation.
5. 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.
6. Determine the application and prepare a notice of the determination.
7. If the application is granted:
 - a. prepare a complying development certificate
 - b. endorse all relevant plans, specifications and other documents
 - c. prepare any associated fire safety schedule or fire link conversion schedule
 - d. ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. ascertain if any contributions plan requires the CDC to be subject to a condition requiring a monetary payment.
 - f. issue CDC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. forward copies of documents prepared to statutory authorities, including the NSW Rural Fire Service, as required by the EP&A Regulation.
8. Fees and charges - as set out in Councils current schedule of fees and charges

Attachment: Application for a Construction Certificate (CC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of CC application form to the Client.
2. If necessary, obtain a certificate under section 149 of the EP& A Act
3. If the development is on a site which affects an existing building, inspect, or arrange for another accredited certifier to inspect, the building and prepare a record of the inspection.
4. 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.
5. 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
6. 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.
7. 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.
8. Determine the application and prepare a notice of the determination.
9. If the application is granted:
 - a. prepare a construction certificate
 - b. endorse all relevant plans, specifications and other documents
 - c. prepare any associated fire safety schedule or fire link conversion schedule
 - d. ascertain if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. 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.
 - f. issue CC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. forward copies of documents prepared to the consent authority as required by the EP&A Regulation.
10. Fees and charges - as set out in Councils current schedule of fees and charges.

Attachment: Application for an Occupation Certificate (OC)

Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of an OC application form to the Client.
2. Conduct an inspection of the development and prepare a record of the inspection.
3. 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.
4. Obtain a final fire safety certificate or interim fire safety certificate as required by the EP& A Regulation.
5. 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.
6. 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.
7. 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.
8. 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 has been carried out) whether the work is not inconsistent with the development consent).
9. Determine the application and prepare a notice of the determination.
10. If the application is granted, prepare an OC and issue it to the Client.
11. Forward copies of documents prepared to the consent authority and the council as required by the EP&A Regulation
12. Fees and charges - as set out in Councils current schedule of fees and charges.

Attachment: Undertake the functions of Principal Certifying Authority (PCA)

Description of services

The Certifier will, on behalf of the Council, perform all work that is necessary to comply with relevant statutory requirements, including:

1. Not later than two days before any building work or subdivision work commences, the Certifier will:
 - a. notify the consent authority of the Certifier's appointment as PCA
 - b. notify the Client of all inspections that are required to be carried out of the building work or subdivision work.
2. Ascertain, before any building work or subdivision work commences, that a construction certificate or complying development certificate has been issued for the work.
3. Ascertain, before any residential building work commences, that either:
 - a. the principal contractor is the holder of a licence under the *Home Building Act 1989* and is covered by appropriate insurance, or
 - b. 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*
4. The Certifier will either carry out all critical stage inspections of the building work or subdivision work prescribed by the EP& A Regulation or required by the Certifier, or ensure that the inspections are carried out by another certifying authority. However, the Certifier will personally carry out the last critical stage inspection that is prescribed for a building.
5. The Certifier will make a record as required by the EP&A Regulation of all inspections that he or she carries out and will ensure that any other certifying authority that has carried out an inspection also prepares a report and supplies it to the Certifier.
6. The Certifier will determine whether any inspection (other than the last critical stage inspection) has been not 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.
7. Determine applications for occupation certificates or subdivision certificate (subject to separate terms under this Agreement)

Compliance functions

8. The Certifier will take such steps as he or she considers appropriate to address any of the following matters relating to the development:
 - a. non-compliance with the development consent
 - b. the carrying out of work without development consent
 - c. an unauthorised use of a building
 - d. a breach of a law relating to the carrying out of work or the use of the land
 - e. a threat to the safety of a person or a person's property
 - f. any other matter the Certifier considers to be in the public interest to address.
9. Without limiting the actions that the Certifier may take, the Certifier may:
 - a. attend the site or nearby properties to inspect any issue of concern relating to the development
 - b. confer with any person in relation to any issues of concern
 - c. cause correspondence to be issued to any person
 - d. 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
 - e. issue notices under section 121H of the EP&A Act

Fees and charges as set out in Council's current schedule of fees and charges.