

Agreement for the Performance of Certification Work

INTRODUCTION

- The Council is a certifying authority that employs accredited certifiers who are authorised to carry out certification work on behalf of the Council.
- Section 31 of the Building and Development Certifiers Act 2018 provides that an accredited certifier must not carry out certification work for a person unless the certifier, or their employer, has entered into a written agreement with the person.
- This document, when signed by you and the Council, forms the agreement between you and the Council for the purposes of section 31 of the Act.
- The rights and responsibilities of each party to this Agreement are set out in the following Attachment, which forms part of this Agreement.
- In the event that a dispute arises in relation to this Agreement, the parties agree to use their best endeavours to resolve the dispute.
- Words and terms used in this Agreement are defined in the Dictionary (page 3).

PARTIES TO THE AGREEMENT

Gunnedah Shire Council (the 'Council')

63 Elgin Street, Gunnedah NSW, 2380

Phone: 02 6740 2100 Email: council@infogunnedah.com.au

The 'Client'

Client Name:

Client Address:

Suburb: State: Postcode:

Client Postal Address:

Telephone: Mobile:

Client Email:

PERSONS WHO MAY CARRY OUT THE CERTIFICATION WORK AND INSPECTIONS

- Certification work under this Agreement may be carried out by any of the following employees of the Council on behalf of the Council, subject to the terms of their accreditation:
 - Sue Cox, BDC1550
 - Blake O'Mullane, BDC1124
- Inspections required under the Environmental Planning and Assessment Act 1979 may be carried out by any of the following employees of the Council subject to the terms of their accreditation:
 - Sue Cox, BDC1550
 - Blake O'Mullane, BDC1124
 - Wade Hudson, BDC3429
 - Ashleigh Nixon, BDC04928
- The Council will notify you in writing if any other person is to carry out certification work and inspections prior to that work being undertaken.

THE DEVELOPMENT

Description of Development: (e.g. Single Storey Dwelling):

Street Address:

Lot Number: DP Number:

Development Consent granted by consent authority

Name of Consent Authority:

DA Consent Number: Date of Consent:

Details of Approved Document:

Details of plans, specifications and other documents approved by development consent

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

CERTIFICATION WORK TO BE PERFORMED

Determination of application for Development Certificates: *(Tick one or more boxes as appropriate)*

Determination of application for a construction certificate*

Determination of application for an occupation certificate*

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 relevant **Fees and Charges**.*

FEES AND CHARGES

Fees and charges are set out in the following Attachment, which forms part of this agreement.

SIGNATURES

Signed/executed by or on behalf of 'The Council'

Name:

Signature: Date:

Signed/executed by or on behalf of 'The Client'

I/we declare that as 'The Client' I/we have freely chosen to engage 'The Council' as certifier and have read the contract and any accompanying document and understand my/our responsibility and those of the certifier.

Name(s):

Signature(s):

Date:

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.
- **BDC Act** means the Building and Development Certifiers Act 2018.
- **Certification work** means:
 - a. the exercise of a function of a certifier (including a principal certifier) specified in section 6.5 of the Environmental Planning and Assessment Act 1979,
 - b. the determination of an application for a strata certificate within the meaning of the Strata Schemes Development Act 2015,
 - c. the inspection of swimming pools under Division 5 of Part 2 of the Swimming Pools Act 1992 and the issuing of certificates of compliance and notices under that Division,
 - d. the exercise of any other function of a registered certifier under the certification legislation or under another Act or law,
 - e. any other work of a kind prescribed by the regulations, but does not include work of a kind that is excluded from this definition by the regulations.
- **Contractor licence** means a licence issued under the Home Building Act 1989
- **Development certificate** means:
 - a. a certificate under Part 4 and 6 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 Assessment (Development Certification and Fire Safety) Amendment (Construction Certificates) Regulation 2023
- **Owner-builder permit** has the meaning given to it by the Home Building Act 1989
- **PC** means a principal certifier appointed under section 6.5 of the EP&A Act
- **Residential building work** has the meaning given to it by the Home Building Act 1989

ATTACHMENT: APPLICATION FOR A CONSTRUCTION CERTIFICATE (CC)

Rights and Responsibilities of Council:

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

1. Providing a blank copy of CC application form to the Client.
2. If necessary, obtaining a certificate under section 10.7 of the EP& A Act
3. If the development is on a site which affects an existing building, inspecting, or arranging for another accredited certifier to inspect, the building and preparing a record of the inspection.
4. If clauses 25-29 of the EP& A Regulation applies to the development (i.e. performance solutions for certain fire safety measures), applying to the Fire Commissioner for an initial fire safety report.
5. If clause 18 of the EP& A Regulation applies to the application (i.e. where there is a performance solution relating to fire safety requirements) obtaining a compliance certificate or written report from a fire safety engineer.
6. Assessing 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.
7. Determining the application and preparing a notice of the determination.
8. If the application is granted:
 - a. preparing a construction certificate
 - b. endorsing all relevant plans, specifications and other documents
 - c. preparing any associated fire safety schedule or fire link conversion schedule
 - d. determining if any long service payment levy is required to be made, and if so, that the amount (or instalment) has been paid.
 - e. determining if any security or monetary payment or levy under sections 7.11 or 7.12 of the EP&A Act are required before the CC is issued.
 - f. issuing the CC to the Client together with associated endorsed plans specifications and other approved documents.
 - g. forwarding copies of documents prepared to the consent authority as required by the EP&A Regulation.

Rights and Responsibilities of Client:

1. The Client agrees to respond in a timely manner to any request from the Council for information concerning the proposed development.
2. The Client acknowledges the necessity for compliance with the conditions of development consent.
3. The Client may terminate this agreement for any reason on the giving of at least two weeks written notice to the Council.
4. The Client agrees to pay all fees and charges set out below on or before lodgement of the application.

Fees and Charges:

The Council agrees to undertake all of the above work for a fixed fee of: \$.....

Any additional inspections to those included in the fixed fee will be charged separately. This fee includes 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:

.....

.....

.....

ATTACHMENT: APPLICATION FOR AN OCCUPATION CERTIFICATE (OC)

Rights and Responsibilities of Council:

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

1. Providing a blank copy of an OC application form to the Client.
2. Conducting an inspection of the development and prepare a record of the inspection.
3. If clause 25-29 of the EP& A Regulation applies to the development (i.e. performance solutions for certain fire safety measures), applying to the Fire Commissioner for a final fire safety report.
4. Obtaining a final fire safety certificate or interim fire safety certificate as required by the EP& A Regulation.
5. Ensuring 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.
6. If clause 18(1) of the EP& A Regulation applied to the development (i.e. where there is an performance solution relating to fire safety requirements), obtaining a further compliance certificate or written report from a fire safety engineer with respect to the completed works as required by clause 40 of the EP& A Regulation.
7. Assessing whether the application satisfies the requirements of the EP&A Regulation, including whether any preconditions of the development consent 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).
8. Determining the application and preparing a notice of the determination.
9. If the application is granted, preparing an OC and issuing it to the Client.
10. Forwarding copies of documents prepared to the consent authority as required by the EP&A Regulation.

Rights and Responsibilities of Client:

1. The Client agrees to respond in a timely manner to any request from the Council for information concerning the proposed development.
2. The Client acknowledges the necessity for compliance with the conditions of development consent.
3. The Client may terminate this agreement for any reason on the giving of at least two weeks written notice to the Council.
4. The Client agrees to pay all fees and charges set out below on or before lodgement of the application.

Fees and Charges:

The Council agrees to undertake all of the above work for a fixed fee of: \$.....

Any additional inspections to those included in the fixed fee will be charged separately.

This fee includes 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:

.....

.....

.....

.....

ATTACHMENT: UNDERTAKE THE FUNCTIONS OF PRINCIPAL CERTIFYING AUTHORITY

Descriptive Services:

The Council agrees to 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:
 - a. notifying the consent authority of the Certifier's appointment as PC
 - b. notifying the Client of all inspections that are required to be carried out of the building work or subdivision work.
2. Determining, before any building work or subdivision work commences, that a construction certificate or complying development certificate has been issued for the work.
3. Determining, 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. Carrying out all critical stage inspections of the building work or subdivision work prescribed by the EP&A Regulation or required by the Council, or ensuring that the inspections are carried out by another certifying authority. However, a certifier employed by the Council will personally carry out the last critical stage inspection that is prescribed for a building.
5. Making a record as required by the EP&A Regulation of all inspections that the Council carries out and ensuring that any other certifying authority that has carried out an inspection also prepares a report and supplies it to the Council.
6. Determining whether any inspection (other than the last critical stage inspection) that has not been carried out was due to circumstances that were unavoidable, and whether the work that would have been inspected was satisfactory. The Council will make a record of any such missed inspection as required by the EP&A Regulation and provide a copy to the Client. The Council will also notify the principal contractor or owner builder of the missed inspection as required by the EP&A Regulation.
7. Determining applications for occupation certificates or subdivision certificate (subject to separate terms under this Agreement).
8. Taking such steps as Council 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 Council considers to be in the public interest to address.
9. Without limiting the actions that Council may take, Council 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 Council considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency
 - e. issue notices under schedule 5, clauses 8 and 9 of the EP&A Act

Rights and Responsibilities of Client:

1. The Client agrees to respond in a timely manner to any request from the Council for information concerning the proposed development.
2. The Client acknowledges that inspections are required to be carried out of the building work or subdivision work and agrees to ensure that building personnel are aware of these inspections.
3. The Client agrees to give the Council not less than two days' notice before the commencement of any building works.
4. The Client acknowledges the necessity for critical stage inspections and compliance with the conditions of development consent.
5. The Client acknowledges that the Council must be given not less than 48 hours' notice before any 'critical stage inspection' or other inspection is required.
6. The Client may terminate this agreement for any reason on the giving of at least two weeks written notice to the Council.
7. The Client agrees to pay all fees and charges set out below on or before lodgement of the application.

Fees and Charges - PCA:

The Council agrees to undertake all of the above work for a fixed fee of: \$.....

Any additional inspections to those included in the fixed fee will be charged separately.

This fee includes the costs of any service provided by a third party and any fees for obtaining or lodging documents, **except** for contingency items (if any). For unforeseen contingencies Council will provide an invoice/quote within 21 days after the completion of that work. The contingency items (if any) are specified below:

.....

.....

.....

.....