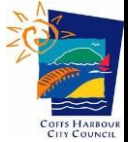


To the General Manager, Coffs Harbour City Council



## Contract for the Appointment of Council as Certifying Authority s109 Environmental Planning and Assessment Act 1979 and Regulation 2000

**Note: *A builder or other person who will be undertaking building work on the project cannot appoint the Certifying Authority unless they are the owner of the property.*** As the person having the benefit of a development consent/complying development certificate for development involving building work, I hereby nominate and authorise Coffs Harbour City Council to act as the certifying authority and undertake relevant functions detailed hereunder with regard to the following development:

### 1. Subject Land

Unit/Street no.

Street or property name

Suburb, town or locality

Postcode

Lot/DP or Lot/Section/DP or Lot/Strata no.

### 2. Application Details

Construction Certificate Number:

Description of development:

### 3. Contract for the Appointment of Council as the Certifying Authority

Coffs Harbour City Council is a certifying authority that employs accredited certifiers (the certifier) who are public officers authorised to carry out the certification work which is the subject of this Agreement on behalf of the Council. The Applicant (the client) seeks to engage the Council to perform certification work on the terms set out in this Agreement pursuant to 73A Building Professionals Act 2005 and s.6.5 Environmental Planning & Assessment Act 1979.

This is a Contract of Agreement between Coffs Harbour City Council (the Council) and the applicant (the Client).

Coffs Harbour City Council is the Certifying Authority and all development certificate functions and certification work will be carried out by a Council Building Surveyor who is currently accredited by the Building Professionals Board.

- I/we agree to allow Council as the Certifier will, to perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application as outlined in the attached Description of Services.
- Fees payable are as specified in accordance with Council's Fees & Charges and are to be paid at the issue of an invoice.
- The Certifying Authority maintains the discretionary right to a) Apply the current fees for outstanding works 2 years from the date of issue, and b) Request payment for additional inspections.
- I agree to provide all documents that the Council may reasonably request for it to perform the function of the Certifying Authority.
- I agree to provide the Council with reasonable access to the development site.
- I agree to notify the principal contractor of any critical stage inspections to be carried out in respect of the building work.

.....  
**Name (PRINT) and Signature of Applicant (or common seal and signatures of office holders if applicant is a corporation).**

**Date** .....

#### 4. Applicable fees and charges

To view the applicable fees and charges associated with this application, please refer to Council's adopted fees and charges at [www.coffsharbour.nsw.gov.au](http://www.coffsharbour.nsw.gov.au).

Personal Details

#### 5. Privacy and Copyright Notice

##### **Notice Under Section 10 of the Privacy and Personal information Protection Act 1998 to Individuals Providing Personal Information on this Construction Certificate Application Form and in Documents Submitted with the Construction Certificate Application.**

The personal information that Coffs Harbour City Council ("Council") is collecting on this application form and in any documents submitted with the construction certificate application is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 ("the Privacy Act"). The purposes for which the information is being collected are assessment and determination of a construction certificate application under the provisions of the Environmental Planning and Assessment Act 1979 which may include making the application form and any documents submitted with the construction certificate application and documents relating to the determination publicly available for inspection or viewing on the Council's website and in other ways that the Council considers appropriate. The intended recipients of the personal information are Councillors of the Council ("Council"), members of staff of Council, administrators of Council, members of Council committees, delegates of Council, contractors engaged by Council (including legal advisers, consultants and external experts), other public sector agencies and any other person who inspects or views the application form or the documents submitted with the construction certificate application.

The supply of personal information requested on the construction certificate application form is not voluntary and if it is not provided, the Council may be unable to process the construction certificate application. The individual to whom the personal information relates, may request the Council to make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information: a) is accurate, and

b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.

Coffs Harbour City Council of Coff and Castle Streets Coffs Harbour, NSW 2450 is the name and address of the agency that is collecting the personal information and the agency that is to hold the information.

##### ***Construction Certificate Application and documents may be made publicly available***

This construction certificate application form (including any personal information and other information supplied on the form) and any document submitted with the construction certificate application may be made publicly available free of charge on the website maintained by the Council and in other ways that the Council considers appropriate in accordance with sections 6 and 18 of the Government Information (Public Access) Act 2009 ("GIPA Act") and Schedule 1 of the Government Information (Public Access) Regulation 2009 ("GIPA Regulation"). In that regard it should be noted that nothing in the Privacy and Personal Information Protection Act 1998 affects the operation of the GIPA Act or operates to lessen any obligations of the Council under the GIPA Act.

##### **Copyright Declaration by Applicant and/or Owners**

1. I understand that this construction certificate application form (including any personal information and other information supplied on the form) and any document submitted with the construction certificate application is open access information under the Government Information (Public Access) Act 2009 and may be made publicly available as open access information free of charge on the website maintained by the Council and in other ways that the Council considers appropriate.
2. I give permission to the Council to copy and issue copies of this construction certificate application form (including any personal information and other information supplied on the form) and any document submitted to accompany the construction certificate application and to reproduce and to publish the construction certificate application form and any document submitted to accompany the construction certificate application on the website maintained by the Council and in other ways that the Council considers appropriate and if I am not entitled to copyright in respect of any document submitted to accompany the construction certificate application I confirm that I have obtained permission from the person entitled to copyright in respect of the document to allow the Council to copy and issue copies of the document and to reproduce and publish the document and I indemnify the Council against any claim or action in respect of breach of copyright relating to the Council copying, issuing copies reproducing or publishing the document.

.....  
**Name (PRINT) and Signature of Applicant (or common seal and signatures of office holders if applicant is a corporation).**

**Date** .....

## Description of Services



### **Application for a Complying Development Certificate (CDC)**

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. Conduct an inspection (by a Council appointed accredited certifier) to inspect, the development site, and prepare a record of the inspection.
3. 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) the applicant shall provide 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.
4. 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.
5. Determine the application and prepare a notice of determination.
6. 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.
  - d. ascertain if any long service levy payment 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 any 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.

### **Application for a Construction Certificate (CC)**

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 the development is on a site which affects an existing building, inspect (by a Council appointed accredited certifier) the building 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 an initial fire safety report.
4. 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 5. 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) the applicant shall provide a compliance certificate or written report from a fire safety engineer.
5. 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.
6. Determine the application and prepare a notice of the determination.
7. If the certificate is granted:
  - a. prepare a construction certificate
  - b. endorse all relevant plans, specifications and any other documents
  - c. prepare any associated fire safety schedule.
  - d. ascertain if any long service levy payment 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 7.11 or 7.12 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 any other approved documents.
  - g. Retain on the Council record all documents as required by the EP&A Regulation.

### **Application for an Occupation Certificate (OC)**

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 (by a Council appointed accredited certifier) 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. Obtain verification from the principal contractor or building owner/agent certifying that all BASIX requirements have been complied with before an OC may be issued, 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 determination.
10. If the certificate is granted, prepare an OC and issue it to the Client.
11. Retain on the Council record all documents as required by the EP&A Regulation.

## **Application for a Compliance Certificate**

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

1. Conduct an inspection (by a Council appointed accredited certifier) of any building work or subdivision work, if necessary.
2. 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.
3. If the Certificate is granted, prepare a compliance certificate and issue it to the Client.

## **Undertake the functions of Principal Certifying Authority (PCA)**

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 Council will advise the Owner/ 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 Council appointed accredited certifier will either carry out all critical stage inspections of the building work or subdivision work prescribed by the EP& A Regulation or any additional conditions required by the Council appointed accredited certifier.
5. The Council appointed accredited certifier will make a record as required by the EP&A Regulation of all inspections that he or she carries out.
6. The Council appointed accredited 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, make a record of any such missed inspection as required by the EP&A Regulation and provide a copy to the Client. The Council appointed accredited 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**

The Council appointed accredited 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 he or she considers to be in the public interest to address.

Without limiting the actions that the Certifier may take, the Council appointed accredited 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 he or she considers appropriate, including the consent authority, NSW Fair Trading or an environmental protection agency
- e. issue notices or orders under section 9.34 of the EP&A Act