



Agreement for the Performance of Certification Work and Notice of Commencement of Works

Agreement
between

BYRON SHIRE COUNCIL (the Council)

and **Owner/s (details provided below)** (the Client (Owner))

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 (Owner) 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 contained in Schedule 1.

Part C. Parties to the Agreement

1 The Council: **BYRON SHIRE COUNCIL**

Business Address

70 Station Street
MULLUMBIMBY NSW 2482
02 6626 7050

Postal Address:

PO BOX 219
MULLUMBIMBY NSW 2482
council@byron.nsw.gov.au

2 The Client / Owner (must be the property owner or person having the benefit of the development)

Please complete

Surname/Company name

Given name

Surname/Company name

Given name

Postal address

Email

Mobile

Alternate phone

Part D Certifier's Details

The details of the employee (including contracting Certifiers) that Council proposes to undertake certification works and to perform inspections on behalf of Council are available on Council's website.

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 - * **not required as certifiers are employees of Council**

Part F The Development

Details of Approved Documents

Plans specifications and other documents approved by a Development Consent / Complying Development Certificate, including the following:

- Architectural Plans
- Engineering Plans
- Structural Design Adequacy Certificate
- BASIX Certificate
- Geotechnical Report
- Housing Specifications
- Site Waste Minimisation Plan
- Other Related Documents and Reports relied on for Assessment

Inspections

Any inspections of the development site or the development required under the EP&A Act or the EP&A Regulation will be carried out by the Certifiers listed in Part D above.

Part G Certification work to be performed and PCA Functions

This Agreement relates to the determination of a Construction Certificate, Complying Development Certificate and / or Occupation Certificate applications and undertaking the functions of the Principal Certifying Authority (PCA) for the development.

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 relevant application. The Certifier will, on behalf of the Council, perform all necessary actions in relation to compliance functions under relevant legislation.

Part H Fees and Charges

Development Certificates

1. Set fees and charges:
 - a. The fees and charges for the determination of an application for a development certificate and to carry out the functions as the PCA for the development are set out in Byron Shire Councils Fees & Charges at time of lodgement of the application.
 - b. The set fees and charges for the determination of a development certificate and for the carrying out of the functions as the PCA for the development must be paid to the Council before, or at the time, an application for the development certificate is lodged with the Council.
2. Contingency fees and charges:
 - a. 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 Byron Shire Councils Fees & Charges at time of the service being provided.
 - b. In respect of any unforeseen contingency work provided for under this Agreement, the Council is to send an invoice to the Client (Owner) within 21 days after the completion of any such work or prior to issue of an Occupation Certificate for the development.

Contingency items#

- a) Re – Inspection Fees (in accordance with Council's adopted Fees & Charges)
- b) Additional Inspection Fees (in accordance with Council's adopted Fees & Charges)
- c) Third party certification/ concurrence in accordance with Development Consent conditions, Council Certification cover letter or relevant Legislation.

Part I Statutory obligations

- [Cl.30, B&DC Reg](#) A contract must include a declaration by the person for whom the certification work is to be carried out confirming that the person:
- has freely chosen to engage the particular certifier, and
 - has read the contract and any document accompanying the contract and understands the roles and responsibilities of the person and the registered certifier.
- [Cl.31, B&DC Reg:](#) A contract must be accompanied by any applicable document published by Fair Trading about the role and obligations of certifiers, the applicant's role, and information available on the online register of certifiers.

Part J Date of Agreement

This agreement is made on

Part K Endorsement by Authorised Officer of Council and Client

Authorised Officer of Council Signature
Signed / Executed on behalf of Council

Signed/executed by or on behalf of the Client Section 6.3 Environmental Planning & Assessment Act & Appointment of the Principle Certifying Authority (PCA).

The Client must sign the Contract for Certification works and appoint the Principle Certifying Authority (PCA).

- The person signing the Contract for Certification work and making the appointment of PCA must be the property owner or person having the benefit of the development. A building contractor cannot make the appointment unless the contractor is the owner of the development site.
- You can only sign on behalf of the owner/s if you have power of attorney or a letter of authority.
- If the land is Crown land, an authorised officer of the Department of Land and Water Conservation must sign the application.

As the owner/s or the person/s who has the beneficiary of the development:

- I / we consent to this application and consent to the Council, its servants or agents entering upon the property without first having given notice, for the purpose of carrying out all or any inspections which the Council may deem appropriate in connection with the processing of this application.
- I / we consent to the terms set out in the Agreement between the owner and Council being the certifying authority who 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.

In accordance with [Cl.30, B&DC Reg](#):

- I/ we declare that:
 - o I /we have freely chosen to engage Byron Shire Council as our certifier, and
 - o I /we have read the contract and any document accompanying the contract and understands the roles and responsibilities of the person and the registered certifier.
- Notice of Commencement of Building under the Environmental Planning and Assessment Act 1979 Sections 6.6 (building works) or 6.12 (subdivision works).
- I / we consent to comply with and satisfy the prior to commencement of works conditions of the Development Consent / Complying Development Certificate and of the requirements of the Home Building Act 1989, Clause 98B or Clause 136C of the Environmental Planning and Assessment Regulations. Please see Schedule 2 for further information.
- The work is to commence two (2) days after the Date of Determination, unless stated otherwise in writing to Council.

AL Owners must give consent by signing below

Signature	Signature
Owner's Name	Owner's Name
Date	Date

**Once endorsed by Council a copy for your records will be sent to you with your Determination.*

SCHEDULE 1 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 (Owner) 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.
- **B&DC Act** means the *Building & Development Certifiers Act 2018*
- **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 6.5(1d) 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 6 of the EP&A Act, being: a construction certificate, a compliance certificate, a sub-division certificate or 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 6.5 of the EP&A Act
- **Residential building work** has the meaning given to it by the *Home Building Act 1989*

SCHEDULE 2 Notes

Home Building Act 1989 requirements in case of building work that involves residential building work (within the meaning of the *Home Building Act 1989*) **attach** the following:

- In the case of work by a **licence** under that Act:
 - A statement detailing the **licensee's name and contractor licence number**, and
 - Documentary evidence that the licensee has complied with the applicable requirements of that Act*, **OR**
- In the case of work done by any other person:
 - A statement detailing the **person's name and owner-builder permit number**, or
 - A declaration signed by the owner of the land, to the effect that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner-builder work* in section 29 of the Act.

* A **certificate** purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* to the effect that a **person is the holder of an insurance contract** issued for the purposes of that Part, is sufficient evidence that the person has complied with the requirements of that Part.