

MidCoast Agreement for the performance of certification work

MidCoast Council

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Agreement between

MidCoast 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

Name of Council: <input type="text" value="MIDCOAST COUNCIL"/>		
Business address: <input type="text" value="4-12 BREESE PDE
FORSTER NSW 2428"/>	Postal address: <input type="text" value="PO BOX 450
FORSTER NSW 2428"/>	
Telephone: <input type="text" value="6591-7222"/>	Mobile: <input type="text"/>	Email: <input type="text" value="council@greatlakes.nsw.gov.au"/>

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"/>	Accreditation number: <input type="text"/>
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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" value="N/A"/>	Address: <input type="text" value="N/A"/>
Policy no./identifier address: <input type="text" value="N/A"/>	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"/>
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Formal particulars of the title of the development site: (Lot & DP):

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"/> Date of development consent: <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"/> Date of CDC: <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 certificate: <input type="text"/>
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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"/>
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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 checked="" type="checkbox"/> None <input checked="" type="checkbox"/> Specific inspections (list): <div style="border: 1px solid black; padding: 5px; width: fit-content;">As per PCA Agreement</div>	<input type="checkbox"/> Inspections by*: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> Accreditation no*: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <input type="checkbox"/> All <input checked="" type="checkbox"/> None <input checked="" type="checkbox"/> Specific inspections (list): <div style="border: 1px solid black; height: 100px; width: 100%;"></div>
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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 in writing 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 CDC*
- Determination of application for a construction certificate*
- Determination of application for a subdivision certificate*
- Determination of application for a compliance certificate*
- Determination of application for an occupation certificate*
- Determination of an application for a strata 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 the relevant Attachment(s).
- 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 to be calculated are set out in the relevant Attachment.
- 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 the relevant Attachment(s).

- 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 the relevant Attachment.
- 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

.....
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*

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-PCA (Tick one of the following)

<input type="checkbox"/> Fixed fee agreement Council will undertake for a fixed fee all work involved in the Description of Services, including 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.	<input type="checkbox"/> Variable costs agreement Council will undertake all work involved in the Description of Services upon the following basis:
Fixed fee: \$ <input type="text"/>	Council's fee for services: \$ <input type="text"/>
Contingency items#* <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	Third party fees for services (including for another accredited certifier's services)* <input type="text"/> Fees for certificates and lodgement of documents* <input type="text"/> Contingency items#* <div style="border: 1px solid black; height: 100px; width: 100%;"></div>

If applicable, insert description of the contingency item – eg, 'performance of Compliance Functions'. If no provision is to be made for contingency items, write 'N/A'

*Insert amount or basis of calculation e.g. "At cost" or "\$.....per hour"