

PERFORMANCE OF CERTIFICATION WORK

Contract of Agreement



Contact us:

Upper Hunter Shire Council
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Scone NSW 2337

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E: council@upperhunter.nsw.gov.au

Office locations:

135 Liverpool St, Scone
34-40 Vennacher St, Merriwa
47 Mayne St, Murrurundi

1) Tick the boxes and fill out all sections as appropriate. Failure to do so may result in delays in your application.

2) Fees must be paid at the time of lodgement. Quote may be obtained by phone or at Council offices.

3) Applications can be lodged in person at one of Council's offices during business hours, or by post.

For further information please contact Council's Environmental Services Department on (02) 6540 1136 during business hours, 8.30am - 4.30pm Monday to Friday.

Application No. _____ Date Received _____ Quote No. _____ Lodgement Officer _____

PART A: INTRODUCTION

This is an Agreement between Upper Hunter Shire Council (the Council) and the Client (as nominated below).

By virtue of the Environmental Planning & Assessment Act 1979 Council is a certifying authority and employs accredited certifiers (the Certifier) who are authorised to carry out the Certification Work which is the subject of this Agreement on behalf of the Council.

The Client seeks to engage the Council to perform certain Certification Work on the terms set out in this Agreement.

***Refer to Part E for particulars of Certification Work.**

PART B: PARTIES TO THE AGREEMENT

1. The Council

Name

2. The Client (For Whom the Certification Work will be carried out)

Name

Postal Address

Contact Name

Phone

Email Address

Client is the property owner

Client is duly authorised by the owner

PART C: DESCRIPTION OF DEVELOPMENT

Provide details of development being certified (e.g. dwelling, garage, swimming pool)

Lot No/s.

Section No.

DP/SP No.

Street/Unit No.

Street Name

Town/Village/Locality

Post Code

PART D: DETAILS OF DEVELOPMENT APPROVAL

Do you have development consent? No Yes (If yes, please provide details below)

Development Consent / Complying Development Consent

Date issued

Consent Authority

Details of any plans and specifications to which these approvals relate (e.g. Drw:SF2345 dated 01/01/2000)

PART E: CERTIFICATION WORK TO BE PERFORMED

This Agreement related to the following Certification Work: *(please indicate which of the following applies)*

- Undertaking the functions of the Principal Certifying Authority (PCA) for building or subdivision works.
(Refer to Attachment A for description of PCA functions and responsibilities of the Client)
- Determination of application for, and issue of, an Occupation Certificate*.
*(*these certificates are 'Development Certificates' for the purpose of this Agreement)*

PART F: CLIENT DECLARATION & SIGNATURE

I/We agree to pay all fees in accordance with Council's adopted fees and charges as detailed in Attachment B to this Agreement.

Note: In respect of any unforeseen contingency work provided under this Agreement, the Council is to send an invoice to the Client within 21 days after the completion of any such work.

I/We acknowledge that the fees are payable are calculated in accordance with Council's adopted fees and charges and are to paid before or at the time of the lodgement of an application for a Development Certificate an/or before the Council commences to carry out any of the functions as the PCA.

I/We agree to provide all documents that the Council may reasonably request for it to perform the function of the PCA and/or Certifier.

I/We agree to provide Council with access to the development site.

I/We agree to notify Council of the appointment of the principal contractor. I/We agree to notify the principal contractor of any critical stage inspections required to be carried out in respect of the building or subdivision work.

I/We acknowledge that I/we have received and understand the description of services as outlined within the Agreement.

Client(s) Name

Client(s) Signature

Date

PART G: THE CERTIFIER (WHO WILL CARRY OUT THE CERTIFICATION WORK)

Council employees accredited certifiers who are currently accredited by the Building Professionals Board under the **Building Professionals Act 2005**. The employee that Council proposes, at the date of Agreement, to carry out the Certification Work is nominated by the below list.

The Client is advised that to the extent that any inspections are required to be carried out under the **Environmental Planning & Assessment Act 1979** and **Environmental Planning & Assessment Regulation 2000** for the Certification Work; those inspections may be carried out by any one of the Council employees listed below who has the necessary accreditation for that work.

Council's Accredited Certifiers

Christine Robinson **BPB 1222**

Lachlan Melichar **BPB 1780**

David Shields **BPB 2006**

PART H: DATE OF AGREEMENT Council to complete

This Agreement is made on

PART I: COUNCIL SIGNATURE Council to complete

Name

Position

Signature Date

(on behalf of Upper Hunter Shire Council)

PART J: FEES AND CHARGES

1. The Council's fees and charges for the performance of the Certification Work are set out in Attachment B.
2. The fees and charges must be paid to the Council:
 - a) before, or at the time an application for the Development Certificate is lodged with the Council; and/or
 - b) before the Council commences carrying out any of the functions as the PCA.
3. 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 Attachment B. In respect of an unforeseen contingency work provided for under this Agreement, the Council will send an invoice to the Client within 21 days after the completion of any such work.

PART K: STATUTORY OBLIGATIONS

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**.

Note: The Board has not published a brochure as at the date of the Agreement.

PRIVACY NOTICE

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998. Any personal information supplied or collected will only be stored and processed for lawful purposes directly related to the functions and activities of Upper Hunter Shire Council.

Council will display some plans and reports (which may be subject to copyright law) online on its DA Tracking portal. In addition, plans and reports may be inspected at Council's Administration Building. No personal information will be displayed. The Environmental Planning and Assessment Act 1979 (NSW) requires Council to make applications and accompanying information, including plans, publicly available during any required notification period.

1. Introduction

The Environmental Planning and Assessment Act 1979 (EP&A Act) requires the appointment of a Principal Certifying Authority (PCA) to be responsible for the carrying out of mandatory critical stage building inspections and subsequent issue of an Occupation Certificate (OC) prior to the use or occupation of a building.

- Division 6.3 of the EPA&A Act prohibits the commencement of the erection of a building in accordance with a development consent until:
- A construction certificate has been issued;
- A PCA has been appointed and the Client has notified the PCA that they will carry out the building work as an owner-builder (if that is the case),
- Where the Client is not carrying out the building work as owner-builder, the Client must have appointed a principal contractor for the building work who is the holder of a contractor licence (where residential building work is involved). The Client must notify the PCA of the appointment of the principal contractor and also notify the principal contractor of any critical stage inspections and other inspections required to be carried out for in respect of the building work,
- The PCA has, no later than two days before the building work commences, notified the consent authority of his/her appointment and notified the Client of any critical stage inspections and other inspections that are required to be carried out in respect of the building work, and
- The Client has given at least two days' notice to the Council (and the PCA if that is not the Council) of the person's intention to commence the erection of the building.

Similar requirements apply to the commencement of subdivision work.

This Attachment sets out the responsibilities of the Client and the Council (when engaged by the Client to act as PCA).

2. Definitions

Principal Certifying Authority (PCA)

The PCA is the authority appointed by 'the Client' (being the person having the benefit of the development consent or complying development certificate) under section 6.6 of the EP&A Act. A PCA may either be Council or an accredited private certifier (except in certain circumstances).

Note:

- a) Council accredited Certifiers, as the PCA cannot be involved in the design of the building/development works; but may offer advice for compliance with Deemed to Satisfy Building Code Australia (BCA) matters.

- b) When Council has been appointed as the PCA, a change of PCA can only be undertaken upon agreement of Council or as determined by the Building Professionals Board.

Critical Stage Inspections

Clause 162A of the EP&A Regulation relevantly prescribes the following as critical stage inspections:

4) In the case of a class 1 or 10 building, the occasions on which building work for which a principal certifying authority is first appointed on or after 1 July 2004 must be inspected are:

- a) (Repealed)
- b) After excavation for and prior to the placement of any footings, and
- c) Prior to pouring any in-situ reinforced concrete building element, and
- d) Prior to covering of the framework for any floor, wall, roof or other building element, and
- e) Prior to covering waterproofing in any wet areas, and
- f) Prior to covering any stormwater drainage connections, and
- g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

4A) However, in the case of a class 1 or 10 building, an inspection on an occasion described in sub-clause (4) (a)-(f) that occurs before 1 July 2005 is not prescribed for the purposes of section 6.5 of the Act if:

- a) The inspection is carried out by a person considered by the principal certifying authority to be suitably qualified to carry out the inspection (but who is not necessarily an accredited certifier) and employed or nominated for the purpose of carrying out the inspection, by the principal certifying authority, and
- b) The person would not be disqualified by section 109ZG of the Act (except by subsection (1) (d) or (1A) of that section) from issuing a Part 4A certificate in relation to any aspect of the development concerned.
- c) The person makes a record of each inspection carried out by him/her and provides a copy of that record to the principal certifying authority as required by clause 162B for a critical stage inspection or any other inspection required by the principal certifying authority.

5) In the case of a class 2, 3 or 4 building, the occasions on which building work must be inspected are:

- a) (Repealed)
- b) Prior to covering of waterproof in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and

- c) Prior to covering any stormwater drainage connections, and
- d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

6) In the case of a class 5, 6, 7, 8 or 9 building, the occasions on which building work for which a principal certifying authority is first appointed on or after 1 July 2004 must be inspected are:

- a) (Repealed)
- b) Prior to covering any stormwater drainage connections, and
- c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building

7) (Repealed)

7A) Inspections of building work must be made on the following occasions in addition to those required by the other provisions of this clause for the building work:

- a) In the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992) has been erected,
- b) In the case of a class 2, 3, 4, 5, 6, 7, 8, or 9 building, after the commencement of the excavation for and before the placement of, the first footing.

Where council is the PCA all of the critical stage inspections must be carried out by a Council Accredited Certifier or another accredited certifier upon prior arrangement. Failure to receive an inspection may result in Council being unable to issue an OC.

Requests for final inspections and/or OC's for "BASIX affected buildings" must be accompanied by a completed pre-final self-certification/form for applicants/builders/principal contractors. It is the responsibility of the applicants/builders/principal contractors to ensure all of the BASIX commitments have been fully met.

Inspections involving works approved under the provisions of Section 68 of the Local Government Act 1993, as amended, can only be carried out by Council Officers (e.g. on-site wastewater management systems, manufactured homes, temporary structures and amusement devices).

Occupation Certificate (OC)

An OC is a certificate that authorises the occupation and use of a new building or a change of building use for an existing building. It is essentially a post-construction check on whether necessary approvals and certificates are in place and that the building is suitable for occupation or use in accordance with its Building Code of Australia classification. An OC authorising the occupation or use of a new building and/or change of use of an existing building can only be issued by the PCA.

Note:

- a) An application form for an OC must be completed and submitted to Council including payment of the relevant fee as prescribed in Council's Fees and Charges schedule.
- b) The OC MUST be issued prior to a building being used or occupied. It is an offence to occupy a building without benefit of an OC.

3. Service provided and responsibilities of Council

Under the EP&A Act a PCA has a range of functions, including:

- a) Ascertaining, before any building work has or subdivision work commences, that a construction certificate or complying development certificate has been issued for the work;
- b) Ascertaining, before any residential building work commences, that the principal contractor for the work is the holder of the appropriate licence and is covered by the appropriate insurance, in each case if required by the **Home Building Act 1989**, unless the work is to be carried out by an owner-builder;
- c) Where the work is being carried out by an owner-builder, ascertaining that the owner-builder is the holder of any owner-builder permit required under the **Home Building Act 1989**, before an owner builder commences on the site of any residential building work;
- d) Carrying out critical stage inspections of the building work or subdivision work as prescribed by the **Environmental Planning and Assessment Regulation 2000** (EP&A Regulation) or required by the Certifier, or ensuring that the inspections are carried out by another certifying authority before issuing an occupation certificate or subdivision certificate for the building work;
- e) Ensuring that any preconditions required by a development consent or complying development certificate are met for the work before the issue of an occupation certificate or subdivision certificate.

Council, as the PCA will:

- 3.1 Carry out inspections within 48 hours of notification (excluding applications pre-2009). Such notification for inspection must be lodged at the Council by the Client; before 3.00pm inspections will be accepted by facsimile (02) 6545 2671, telephone (02) 6540 1100 or in person at the Help and Information service counter at Council's office.
- 3.2 Carry out inspections in Merriwa on Wednesdays, Murrurundi on Tuesdays and Thursdays and Scone from Monday to Friday.
- 3.3 Make a written record of the inspection and provide a copy to the relevant owner and/or applicant.
- 3.4 Advise the Client of the details of the work the subject of an unsatisfactory inspection and the need (if any) to carry out a re-inspection.

3.5 Notify the Client if any additional fees for inspection and required as a result of re-inspection for incomplete or defective works. Re-inspection fees will be levied and payable for all re-inspections required as a result of work not being completely ready for the booked inspection or as a result of defective works.

3.6 Issue determinations for OC's and subdivision certificates on the prescribed form.

Note: Inspections will be carried out Monday to Friday (inclusive) only and excludes Public Holidays.

4. Responsibilities of the Client

The Client, in appointing Upper Hunter Shire Council as the PCA agrees to:

4.1 Pay all fees for services provided by the PCA or such fees and charges as required by another Authority, e.g. NSWFB.

4.2 Ensure that arrangements are made for Council to carry out inspections of the building works at various stages indicated in Council's letter of acceptance of PCA appointment and the Construction Certificate notice of inspections.

4.3 Ensure that notification, as required in clause 3 above, I provided of all the required inspections. The Client acknowledges that pre-2010 applications require a minimum of 72 hours notice to be given to Council in order to retrieve relevant files from storage.

4.4 Ensure that building work is ready for inspection by 9.30am on the day of inspection.

Note: Should a specific inspection time of site access be required, this may be arranged, subject to availability by speaking with the relevant Council Accredited Certifier between 9.00am and 9.30am on the day of the inspection.

Where a re-inspection is required as a result of defective or incomplete works, the Client shall make payment of the appropriate re-inspection fee as prescribed in Council's Fees and Charges at Council's office.

4.5 Where an inspection is required, the Client **MUST** ensure the relevant stamped approved plans and specifications and other required details are on-site and/or available to the Council Accredited Certifier. For example, where a timber floor, roof or wall frame inspection is required, the relevant information must be provided such as roof truss specifications, tie-down and joint schedules, roof and wall bracing plans and specifications, wall insulation specifications, timber sizes and the like.

4.6 Before booking a final inspection and/or Occupation Certificate for a "BASIX affected building" the Client **MUST** submit to Council a completed pre-final self-certification/form. It is the responsibility of the applicants/builders/principal contractors to ensure all of the BASIX commitments have been fully met.

4.7 Ensure that the erection of the building and/or works are in accordance with the development consent and construction certificate.

5. Stages and type of works requiring inspection

Council as the PCA, will confirm at what stages of construction inspections are to be carried-out. The schedule of inspections will be contained within the Construction Certificate or Complying Development Certificate or within Council's letter of acceptance of PCA appointment.

The type of inspection may include, but not be limited to:

5.1 Inspections relating to the structural integrity of health and amenity of the building and it's occupants (e.g. footings, slab, pre-lining framework, wet area flashing, final and the like).

5.2 Inspections associated with engineering works including car-parking, drainage and road construction.

5.3 Inspections of food premises fit-out.

5.4 Inspections determining compliance with prescribed development conditions and other provisions prescribed in the **Environmental Planning and Assessment Act and Regulation**.

5.5 The mandatory critical stage inspections.

Information

For further information on this specification and matters relating to the booking of inspections, please contact Council's Customer Service Department on (02) 6540 1100.

ATTACHMENT B: FEES AND CHARGES

PARTICULARS OF FEES OR CHARGES		2018/2019 (GST included)
Building certificates (s149D) - From 01/08/2004		
Residential - per dwelling unit		\$250.00
Other	Less than 200m ²	\$250.00
	200 - 2000m ²	\$250.00
	(plus \$0.50 per each additional m ²)	\$0.50
	More than 2000m ²	\$1165.00
	(plus \$0.075 per each additional m ²)	\$0.075
Re-inspection for building certificates		\$90.00
Additional copies of building certificates	per copy	\$13.00
Certified copy of a document, map or plan	each	\$53.00
Compliance inspection certificate (Critical Point Inspections - i.e. pre-commencement, internal drainage, footings/piers, slab/piers, frame, wet areas, external drainage, stormwater, occupation)		\$142.00
Inspections where works have been found to be unsatisfactory		\$142.00
Certificate Section 121ZP (EPAA)		\$92.00
Certificate 735(a) (LGA)		\$92.00
Construction Certificate/Complying Development Certificate (approvals)		
Value of development up to \$10,000		\$190.00
Value of development \$10,001 up to \$1,000,000	Exceeding \$10,000 up to \$1,000,000	\$190.00
	PLUS - an additional \$2.00 for each \$1,000 (or part of \$1,000) of the estimated costs exceeding \$10,000	
Value of development exceeding \$1,000,001	Quote to be confirmed by Director Environmental & Customer Services	Quote
	PLUS - an additional \$2.00 for each \$1,000 (or part of \$1,000) of the estimated costs exceeding \$1,000,000	
OR		
Full cost recovery for service where referred to external party for determination		Full Cost
Occupation Certificate		\$122.00
Construction/Occupation Certificate - private certifier		\$36.00
Amended Construction Certificate	Modification to a Construction Certificate	\$122.00
	Resubmission of a Construction Certificate following previous refusal	50% of original fee
Amended Complying Development Certificate	Modification to a Complying Development Certificate	\$117.00
	Resubmission of a Complying Development Certificate following previous refusal	50% of original fee
Compliance Inspection Certificate subdivision work		\$142.00
Re-inspection of unsatisfactory subdivision work		\$142.00