

Principal Certifying Authority Service Agreement

Under the Environmental Planning & Assessment Act 1979 (Section 81A)



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Endorsement Date:

.....
(office use only)

1. ABOUT THIS AGREEMENT

This is a Service Agreement between
[insert Applicant's name(s)]

being the person/company having the benefit of the consent as listed below and Cootamundra Shire Council ("the PCA") wherein the PCA has been appointed in accordance with the Environmental Planning & Assessment Act 1979 ("the Agreement").

Note: In accordance with the Act (S.109E), only the person/company having the benefit of the Development Consent may appoint the PCA. This is generally the land owner. The builder may only appoint the PCA where the builder is also the owner of the land.

The Owner must complete, sign and submit the Agreement with an application for a Construction Certificate/Complying Development Certificate Application relating to the proposed development. The Owner hereby appoints the PCA to carry out critical stage/nominated inspections and to issue the required Occupation Certificate ("the Services") for the proposed building works in consideration for the Agreement price.

2. OWNERS DETAILS

Owner's Name:

Address:

.....

.....

Telephone:

3. SITE & DEVELOPMENT DETAILS

Unit, Shop or Suite: Street no: Street:

Town:

Lot(s):.....Section:.....DP/SP(s).....

Development Description

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DA No: Issue Date:

CC/CDC No: Issue Date:

4. PRINCIPAL CONTRACTORS DETAILS

*Note: **principal contractor** for building work means the person responsible for the overall co-ordination and control of the building work.*

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the Home Building Act 1989.

Name:

Address:

.....

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Telephone:

If the proposed development is residential building works pursuant to the *Home Building Act 1989*, the following details are required:

Builder's Licence No:

Insurance Provider:

Certificate of Insurance No:

5. OCCUPATION CERTIFICATE

The PCA shall only issue an Occupation Certificate for the building works when the PCA is satisfied that:

- The health and safety of the occupants of the building have been taken into consideration where an interim occupation certificate is being issued, and
- A current development consent or complying development certificate is in force for the building, and
- If any building work has been carried out, a current construction certificate (or complying development certificate) has been issued with respect to the plans and specifications for the building, and
- The building is suitable for occupation or use in accordance with its classification under the *Building Code of Australia*, and
- A fire safety certificate has been issued for the building, (if required) and
- A report from the Fire Commissioner has been considered (if required).

6. PCA INSURANCE

The PCA shall maintain an insurance policy in accordance with the Environmental Planning & Assessment Act 1979.

7. OWNER'S OBLIGATIONS

The Owner shall:

- Not engage any other Principal Certifying Authority after the appointment of the PCA. Breach of this condition will entitle the PCA to recover any costs of whatsoever nature expended along with any profits that would have emanated from this contract;
- Ensure that the site is available for the PCA to carry out all critical stage inspections and any other inspections the PCA considers appropriate. These shall be detailed in the requirements of the PCA, attached to the Construction Certificate/Complying Development;

- Obtain an Occupation Certificate *prior to occupying* the subject development;
- Comply with any Notices or Orders that the PCA issues under the Environmental Planning & Assessment Act 1979;
- Provide all information that the Owner can reasonably obtain to enable the PCA to fulfil its statutory and contractual obligations;
- Pay the PCA in accordance with the terms of the Agreement.

8. VARIATIONS

In the event that:

- The building works do not commence within twelve (12) months from the date the Construction Certificate/Complying Development Certificate is issued; or
- Any part of the building works is re-designed; or
- More Construction Certificates/Complying Development Certificates and/or Compliance Certificates are required to be issued by the PCA than those listed herein; or
- A requirement of the legislation, Building Code of Australia or any other regulation requires any aspect of the building works to be varied; or
- The PCA is required to undertake more inspections than those listed herein, or
- Is required to issue any notices or orders;

then the PCA:

- May vary the contract to the extent that the PCA will be able to carry out its contractual obligations;
- May increase the contract price, such increase to be made by way of Notice to the Owner stating the reason/s for the increase and the amount of the increase;
- May claim all costs associated with the delay as reasonably determined by the PCA;
- Must give the Owner notice that a variation will be necessary within 7 days from the date on which the PCA becomes aware of the variation.

9. TERMINATION

If the Owner:

- Permits building works to commence without the issuing of a Construction Certificate/Complying Development Certificate;
- Fails to give notice of commencement at the appropriate time, or
- Fails to pay any money owing to the PCA after thirty (30) days of that money becoming payable; or
- Has an execution levied against it, assigns or attempts to assign its estate for the benefit of its creditors, intends to or attempts to or makes a composition or Scheme of Arrangement with creditors, has a winding up order made against it, intends to or attempts to pass a resolution for winding up, goes into liquidation, has an Official Manager or Receiver appointed, has a Mortgagee taking possession of any part of its property, has an Administrator or a Provisional Liquidator appointed, becomes insolvent or bankrupt; or
- Breaches the Agreement in any respect; or
- Does not permit the PCA to issue the Occupation Certificate within 60 days from the date of completion of the building works; or

then the PCA:

May terminate the Agreement by sending a written Notice of Termination to the Client stipulating the breach ("the Notice of Termination"). If the PCA terminates the Agreement then the PCA is entitled to payment of termination money, the amount of which shall be the amount outstanding at the time of termination.

If the PCA terminates the Agreement, the PCA is entitled to carry out an inspection, at the Owner's expense, prior to termination to determine the state of the development.

As from the date of final inspection, the Owner must indemnify the PCA for any liabilities, including but not limited to professional liability and public liability, of whatsoever nature that emanate from:

- The need to terminate this Agreement or the Building Contract; or
- Any matters of non-compliance with the Act on the part of the Owner or any other contractors.

10. DISPUTE RESOLUTION

Any dispute of whatever nature to do with this Agreement must be referred to a court of competent jurisdiction.

11. FEES

The Agreement price will be claimed by the PCA and is due and payable by the Owner upon lodgement to Council of the Construction Certificate/Complying Development Certificate Application.

The fee for completing a required inspection or for an Occupation Certificate (interim or final) is as per the current Council Fees and Charges Schedule.

The fee for completing a required inspection for an Occupation Certificate (interim or final) outside normal business hours is as per the current Council Fees and Charges Schedule.

In the event that the PCA is required to carry out any re-inspections for whatever reason, any such re-inspection is charged at the same rate or fee as is charged by the PCA for completing a required inspection.

If the PCA considers it appropriate, the PCA may carry out two or more inspections at the same time, from the same visit to the site. Should two or more inspections be carried out at the same time, the Owner will be entitled to a refund for any prepaid inspections.

12. EXECUTION

Signature/s:

(Owner 1)

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(Owner 2)

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(Owner 3)

.....

(Owner 4)

(If more than one Owner, every Owner must sign. If the Owner is a company, the contract must be signed by a director under common seal.)

Signed for and on behalf of the Principal Certifying Authority (Cootamundra Shire Council):

Name:

Signature:

(Authorised Officer of Cootamundra Shire Council only)