

Service Agreement for Certification Work

Terminology

1. Environmental Planning and Assessment Act 1979: ('the act')
2. Environmental Planning and Assessment Regulation 2000: ('the regulation')
3. Building and Development Certifiers Act
4. National Construction Code (also Building Code of Australia)
5. Client - Person who appointed the Building Development Certifier for the purpose of this agreement
6. DTS – Deemed to Satisfy
7. BDC - Building Development Certifier
8. CC - Construction Certificate
9. CDC- Complying Development Certificate
10. OC – Occupation Certificate
11. DA- Development consent

Terms and Conditions

This document is a service agreement between Direct Building Approvals Pty Ltd and the 'the client'. For the purpose of this service agreement, 'the client' is the person who may appointed the BDC.

Obligations of the – Building & Development Certifiers

1. Issuing of Construction / Complying Development Certificate

- 1.1 The BDC shall perform all work that is necessary to comply with relevant statutory requirements and to facilitate the timely determination of an application, to issue a CC or CDC to the Client, and to endorse plans, specifications and other documentation used to determine the application with a reference identifier number specific to the development: -
- 1.2 Once the Client pays the BDC any money owed for work associated with the issuing of a CC or CDC.
- 1.3 Once design and construction of the building complies with the Development Consent and the Regulations or any prescribed Complying Development criteria by either the State Government or local Council; and
- 1.4 The design can comply with the DTS provisions of the BCA.
- 1.5 The BDC shall provide copies of approval documentation to Council via the NSW Planning Portal and any other relevant statutory authority within 2 days of the date of determination, as required by the EP&A Regulation.
- 1.6 When the BDC issues a CC or CDC, the BDC may request as many Certificates as possible or statements from any Certifying Authority or any other party that the BDC considers necessary in addition to any Certificates listed in the Certificates Schedule.

2. Critical Stage Inspections

- 2.1 The BDC (or another agreed to by the BDC) shall carry out the mandatory critical stage inspections as are prescribed in the regulations and other required inspections contained in the notice to the client issued by the BDC under S.81A of the Act and cl. 103A of the Regulations.
- 2.2 Provide the BDC with all requested Pre-Commencement items to allow BDC appointment at least 2 days prior to commencement of any works
- 2.3 The BDC shall issue an inspection report for each inspection undertaken. The Owner/Builder is to provide a Structural Engineering Certificate inspection report from a qualified practicing engineer on completion of Footings / Slab / Frame works – Non Compliance could result in No OC being issued.
- 2.4 Ensure that all critical stage inspections are booked as specified in the Schedule 1: Mandatory Critical Stage Inspections
- 2.5 The BDC shall carry out as many inspections as the BDC considers necessary in addition to those nominated in the Inspection Schedule 1.
- 2.6 Ensure that the site is accessible for the BDC to carry out its contractual obligations.
- 2.7 Use suitably qualified or experienced contractors for all aspects of the Building Work.

2.8 Attend any site meetings if requested by the BDC.

- 2.9 Comply with any Written Direction Notices that the BDC issues.
- 2.10 Ensure compliance with all conditions of any DA/CC/CDC

3. Issuing of Occupation Certificates

- 3.1 Following the final inspection, the BDC shall provide a Part / Whole OC application form. The BDC shall also provide a written schedule of documents required to accompany the occupation certificate application.
- 3.2 The BDC shall issue an OC for the building works when satisfied that:
 - a) All conditions of the development consent required to be satisfied prior to the issue of the occupation certificate have been satisfied to the satisfaction of the BDC.
 - b) The building works are considered by the BDC to be consistent with the DA/CC/CDC, the Act and Regulations.
 - c) The building works are considered by the BDC to be suitable for occupation in accordance with its classification under the Building Code of Australia (BCA).
 - d) A fire safety certificate has been issued (class 1 and 10 buildings excluded).
 - e) An application for an occupation certificate has been received by the BDC.
 - f) The building does not pose any threat to the health or safety of the occupants in the case of a Part OC.
 - g) Apply for, and provide all documentation required to allow the issue of an OC authorising full use of the development, within two years of the date of the construction approval.
- 3.3 Failure to comply with (3.2) shall entitle the BDC to terminate the contract, or to charge additional fees to extend the contract
- 3.4 Shall ensure that there is no occupation and/or use of the building until it is authorised by the issue of an OC or Part OC under the relevant DA/CC/CDC

4. VARIATIONS TO THIS AGREEMENT

- 4.1 If the Building Works do not commence within twelve (12) Months from the date of the execution of this agreement; then the BDC may charge an additional fee of 30% of the total amount of the original fee of CC/CDC approval
- 4.2 If the building work is completed (and a final occupation certificate is not issued) within twelve (12) months of the date of issue of the last mandatory inspection report, then the BDC may charge an additional fee of 30% of the CC/CDC approval.
- 4.3 If an Occupation Certificate is not issued within six (6) months of practical completion of the development then, the BDC will charge an additional 30% of the total amount of the original fee of the CC/CDC approval
- 4.4 If any part of the Building Works are re-designed by the Client or the Client's representative; the BDC will charge an hourly rate of \$150.00 per hour (GST Inclusive) for assessment.
- 4.5 If any part of the building is designed pursuant to a DTS Provision of the BCA, and is subsequently changed by way of a Performance Solution; the BDC will charge an hourly rate of \$150.00 per hour (GST Inclusive) for assessment
- 4.6 If the BDC determines that additional CC or CDC are required to be issued The BDC will charge the amount of \$550.00 (GST Inclusive) for the issue of a modified CC/CDC
- 4.7 If an amendment to the Act, the BCA or any other law that requires any aspect of the Building Works or the BDC's work to be varied; the BDC will charge an hourly rate of 200.00 per hour (GST Inclusive) for assessment
- 4.8 If the BDC is required to undertake more inspections than those nominated in the quotation/invoice; Additional inspections will be charged at - \$250.00 (GST Inclusive) per inspection
- 4.9 If the BDC is required to issue a Part OC the BDC will charge for the Part OC the amount \$400.00 (GST Inclusive)
- 4.10 If the Client does anything that causes a delay to the Building Works or does anything that delays the ability of the BDC to carry out its obligations under this contract, an

- 4.11 hourly rate of \$200.00 per hour (GST Inclusive) will be charged The BDC reserves the right to charge the Client to investigate non-compliances where the Client has acted outside the scope of the conditions of the Development Consent at the amount of \$500.00 (GST Inclusive)
- 4.12 Should the BDC determine that any unauthorised building works have occurred, and a written direction notice is required to be issued a Fee of \$600.00 (GST inclusive) will be issued.
- 4.13 Should a change of ownership arise once a CC/CDC is issued the contract immediately is ceases and the new owner will need to enter into a formal contract with the BDC and Direct Building Approvals. A revised service agreement and quotation will be provided.

5. Termination of Agreement

- 5.1 if the Client breaches the contract in any respect;
- 5.2 If it is not possible to issue the Construction Certificate or Complying Development Certificate 6 months from the date of execution of this contract;
- 5.3 If the Building Works do not commence after twelve (12) months from the date the Construction Certificate or Complying Development Certificate was issued, If the Client does not permit the BDC to issue an OC after six (6) months from the date of practicable Completion,
- 5.4 If the Building Works have commenced without the issuing of a CC/CDC, then: -
- 5.5 The BDC may terminate this contract by sending a written Notice of Termination, stating the breach/s, to the Client. Termination will take effect as soon as the Client receives the Notice of Termination
- 5.6 Should the client fail to notify the BDC of notice of commencement of building works or any critical stage inspections
- 5.7 If the client decides to terminate the agreement prior to the issue of the CC/CDC the deposit payment will not be refunded (this payment will cover costs for works the BDC has completed to date)

6. Effect of conduct

- 6.1 This contract represents the entire contractual agreement between the parties and overrides any other documents or oral representations upon which the parties may seek to rely to generate any legal effect or to imply any contractual obligation.

7. Certifier's Insurance Details: Insurance to be held under Building and Development Certifiers Act

Name of insurer:

Policy No: SY0006E80124MI -PI
 Type of Insurance: PROFESSIONAL INDEMNITY
 Liberty AUS PI Construction Consultants Policy (03-11)
 Policy Period: From 29/07/2024 To 29/07/2025

END OF TERMS AND CONDITIONS