 **Sentinel Building Certification Pty Ltd**

 **All Correspondence to-**

 PO Box 789

 WAVERLEY NSW 2024

 E: info@sentinelapprovals.com.au

**NOTICE OF APPOINTMENT OF PRINCIPAL CERTIFIER(PC)&PC SERVICE AGREEMENT**

**Terminology**

1. Environmental Planning and Assessment Act 1979: (the Act)
2. Environmental Planning and Assessment Regulation 2000: (the Regulations)
3. National Construction Code (also Building Code of Australia): NCC
4. Principal Certifier: PC
5. Client: The person who appointed the PC for the purpose of this agreement
6. Accredited Certifier: AC

This document is a service agreement between Sentinel Building Certification Pty Ltd and undermentioned property owner.

**Terms and Conditions**

This document is a service agreement between Sentinel Building Certification Pty Ltd and ‘the client.’ For the purpose of this service agreement, ‘the client’ is the person who appointed the PC.

**Obligations of the PC/AC**

1. **Critical Stage Inspections**
	1. The PC/AC (or another AC agreed to by the PC) 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 PC under Clause 103A of the Regulations.
	2. The PC shall issue an inspection report for each inspection undertaken.
	3. Mandatory critical stage inspections will be carried out by certifiers employed by Sentinel Building Certification Pty Ltd who hold appropriate levels of accreditation.
2. **Issuing of Occupation Certificates**
	1. Following the final inspection, the PC shall provide an occupation certificate (OC) application form. The client can apply for either part or final OC. The PC shall also provide a written schedule of documents required to accompany the occupation certificate application.
	2. The PC shall issue an occupation certificate for the building works when satisfied that:
		1. All conditions of the development consent and/or complying development certificate required to be satisfied prior to the issue of the occupation certificate have been satisfied to the satisfaction of the PC.
		2. The building works are considered by the PC to be consistent with the development consent, construction certificate (including a complying development certificate), the Act and Regulations.
		3. The building works are considered by the PC to be suitable for occupation in accordance with its classification under the NCC.
		4. An application for an occupation certificate has been received by the PC.
		5. The building does not pose a threat to the health or safety of the Occupants in the case of a Part OC.

**Obligations of the Client**

1. **The client:**
	1. Shall ensure that the site/works are available for the PC to carry out its contractual and statutory obligations.
	2. Shall ensure that competent people are used/engaged for all aspects of the building works.
	3. Agrees to attend any meetings if required to do so by the PC.
	4. Agrees to comply with any Written Direction Notice(s) that the PC issues.
	5. Shall arrange for the provision of additional professional reports/certificates as requested by the AC/PC.
	6. Shall provide all information that can be reasonably obtained to enable the AC/PC to fulfil its obligations.
	7. Agrees to act in good faith, in accordance with the Act and Regulations and in a cooperative fashion.
	8. Shall comply with all terms and conditions of the development consent and statutory requirements.
	9. Shall ensure that no nuisance and/or damage is caused to any adjoining properties and/or adjacent public place, and that no work (including excavation, drainage and/or footings) is carried out on any adjoining property.
	10. Shall ensure that the PC receives the required notification of inspection in the manner and timeframe detailed in the PC’s notice to the client.
	11. Shall ensure that there is no occupation and/or use of the building until it is authorised by the issue of an occupation certificate under the relevant development consent and construction certificate (including a complying development certificate).
	12. Shall not carry out, permit and/or allow any development or work in breach of the Act, Regulations, or the NCC, local council regulations, development consent, or that encroaches onto adjoining property.
	13. Acknowledges that any application for the issue of a part occupation certificate, compliance certificate, or modified construction certificate, is subject to a separate fee as stated in the Fee Proposal.

**Commencement of building work/PC appointment**

1. **The client shall:**
	1. Give a minimum of two (2) days notice prior to building work commencing, ensure that the AC has received written notice from the client (or other person on behalf of the client) of the date that it is intended to commence building work.
	2. Where building work has been approved under the provisions of a complying development, a minimum of seven (7) days prior to building or demolition work commencing, ensure that the AC has received written notice from the client (or other person on behalf of the client) of the date that it is intended to commence building work.
	3. Give a minimum of two (2) days notice prior to building work commencing, notify Council in writing of the clients intention to commence building works (in the manner and form required by the Act and Clause 104 of the Regulations).
	4. Ensure no building work is commenced until the client has received the PC’s notice under the Act and Clause 103A of the Regulations.
	5. Ensure no building work is commenced until the client has complied with the requirements of the Act.

**The client acknowledges that:**

* 1. The statutory PC appointment role under this Service Agreement is not accepted by the AC until the client has satisfied the requirements of 4.1 to 4.5 above and the PC has confirmed such appointment in writing to the client in the notice issued under the Act and Clause 103A of the Regulations.
	2. Failure to request a mandatory critical stage inspection will prohibit the PC under Section 6.5 of the Environmental Planning & Assessment Act 1979 from issuing an Occupation Certificate.

**General Matters**

1. **If:**
	1. Any part of the building works are redesigned and/or constructed contrary to the issued development consent, construction certificate (including a complying development certificate) plans, and/or this agreement;
	2. An amendment to the Act, the NCC, or any other law requires any aspect of the building works or the AC’s/PC’s work to be varied;
	3. The PC is required to undertake additional inspections than those paid for under the issued Fee Proposal;
	4. The builder, owner, and/or client cause unreasonable delays to the building works which affect the ability of the AC/PC to carry out its obligations under this agreement;
	5. Written correspondence is received by the AC/PC from the Council and/or an adjoining property owner and/or occupant and/or other person/authority in regard to the development works, and/or the subject property and such correspondence necessitates additional work by the AC/PC (and/or others on behalf of the AC/PC);
	6. Preparation of additional reports, letters, photocopying etc. at the request of the client, owner or builder;
	7. Unauthorised building work is carried out on the property and/or adjoining land; or
	8. Any Written Directions Notice or order issued by the PC or Council, or other authority or Court;

Then the AC/PC may charge an additional fee at the rate of $200 (plus GST) per additional hour of work incurred. Notice of such additional fees is to be made by way of notice to the client in writing and stating the reason/s for the additional fees, the amount of the additional fees and the required period for payment.

1. **Duration of works**

6.1 If the building work does not commence within twelve (12) months of the date of issue of the construction certificate (including a complying development certificate), or if the building work is not completed (and a whole occupation certificate is not issued) within twelve (12) months of the date of issue of the last mandatory inspection report, then the AC/PC may charge an additional fee of 50% of the total amount of the original fee for the assessment of the construction certificate (including a complying development certificate) to enable the issue of an occupation certificate.

6.2 If an occupation certificate has not been issued after a period of twelve (12) months from the occupation of the premises or the date of the last mandatory inspection, the AC/PC may give thirty (30) days notice to the applicant for the submission of an application for an occupation certificate. If and application has not been received at that end of that period then the AC/PC may terminate this agreement.

6.3 Further to 4.7 (above), if any mandatory inspection is not requested and is therefore not undertaken by the AC/PC as a result, the PC will not issue an Occupation Certificate. In this situation, any fees associated with the application paid to the PC will not be refunded.

1. **Payment of fees**

7.1 Fees are to be paid in accordance with the attached Fee Proposal which forms part of this Service Agreement.

* 1. Where certification work involves the assessment and issue of a construction certificate or complying development certificate, the required fees and charges are to be paid on or before the lodgement of the application for the certificate.
	2. Where certification work involves the carrying out of functions of a PC, fees are to be paid before the carrying out of those functions.
	3. Where unforeseen circumstances arise during the course of a project that requires additional work then the AC/PC is entitled to issue an invoice for that work within twenty one (21) days in accordance with allowances listed in the Fee Proposal.
1. **Termination**
	1. The AC/PC may terminate this agreement at any time by issuing a Notice of Termination in circumstances involving any breach of clauses 4, 5 and 6 of this agreement and/or failure to pay any money owed to the AC/PC or in circumstances where upon the AC/PC’s obligations are restrained by a Court order.
	2. The client must pay all termination monies to the AC/PC within fourteen (14) days of receiving a Notice of Termination.
	3. If necessary, the AC/PC is entitled to carry out a further inspection at the clients expense (such inspection being necessary to audit and document the works at that time).
	4. This agreement and PC appointment automatically exhausts upon the issue of a [whole] occupation certificate for the development for which the AC/PC has been appointed.
2. **Effects of conduct**
	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 imply any contractual obligation.
3. **Certifiers Insurance details**

Insurance to be held under Division 1, Part 3 of the Building & Development Certifiers Act2018. Name of Insurer

 Lloyds of London

1. **Certification work to be performed**

(Tick one or more boxes as appropriate)

11.1 Determination of applications for development certificate

[ ]  Determination of an application for a complying development certificate (CDC)

[ ]  Determination of an application for a construction certificate (CC)

[ ]  Determination of an application for a compliance certificate

[ ]  Determination of an application for an occupation certificate (OC)

11.2 Undertaking the functions of the Principal Certifier (PC)

[ ]  Undertake the functions of PC for the development

1. **Fees and charges**

12.1 Development certificates

Set fees and charges

1. The fees and charges for the determination of an application for a development certificate are set out in the Fee Proposal.
2. The set fees and charges for the determination of an application for a development certificate must be paid to the Certifier before, or at the time, an application for a Construction Certificate or Complying Development Certificate is lodged with the Certifier and as set out in the Fee Proposal.

Contingency fees and charges

1. In the case of fees and charges that may be payable from work arising from unforeseen contingencies, the basis on which those fees and charges are to be calculated are set out in the relevant attachments(s).

12.2 PC functions

 Set fees and charges

1. The fees and charges for the Certifier to carry out the functions as the PC for the development are set out in the fee proposal.
2. The set fees and charges for fulfilling the role of PC for the development are to be paid in full prior to the Certifier issuing the construction certificate or complying development certificate.

Contingency fees and charges

1. In the case of fees and charges that may be payable from work arising from unforeseen contingencies, the basis on which those fees and charges are to be calculated are set out in the relevant attachments(s).
2. In respect of any unforeseen contingency work provided for under this Agreement, the Certifier is to send an invoice to the client within twenty one (21) days after the completion of any such work.

|  |
| --- |
| **FEE PROPOSAL****Fixed Fee Agreement** |

The certifier will undertake for a fixed fee all work involved in assessing, determining and finalising the application as set out in the Fee Proposal, including the costs of any service provided by a third party and any fees for obtaining and lodging documents, except for contingency items (if any) specified below.

Contingency items:

Up to and including the inspections listed in the Notice to Applicant of Mandatory Critical stage inspections are included in the fixed fee. Additional inspections (if required) shall be charged at a rate of $220 plus GST per inspection.

Part occupation certificates and/or modification applications shall be charged at a rate of 50% of the original fee proposal plus GST

Contingency items:

**THIS DOCUMENT IS NOT AN AUTHORITY TO COMMENCE ANY BUILDING WORKS. NO BUILDING WORK MAY TAKE PLACE UNLESS A CONSTRUCTION CERTIFICATE/COMPLYING DEVELOPMENT CERTIFICATE AND REQUIRED STATUTORY NOTICES HAVE BEEN ISSUED AND RECEIVED.**

**CLIENTS ACCEPTANCE OF SERVICE AGREEMENT / APPOINTMENT OF PC**

Proposed Building Works:

Council DA Number: CC/CDC Number:

DA Approved Drawings (if applicable):

Property Address:

In accordance with the terms and conditions contained herein and the Fee Proposal document; I hereby agree to this Service Agreement with Sentinel Building Certification Pty Ltd, including the associated payment of fees. In accordance with the Act and Regulations, I hereby declare that:

1. I have freely chosen to engage Mr Gavin May as the Principal Certifier; and
2. I have read the contract and any associated documentation and understand my responsibilities and the role and responsibilities of the Certifier; and

make application to appoint Sentinel Building Certification Pty Ltd as the Principal Certifier (the PC) for the proposed building works under the subject development consent/complying development certificate; concluding upon the issue of the final occupation certificate or upon termination of the agreement. I acknowledge that Mr Gavin May is not the PC until he has accepted and confirmed to me his appointment in writing.

Name (print):

Signature:

Address:

**PLEASE POST/EMAIL THIS FORM TO:**

Mr Gavin May

Sentinel Building Certification Pty Ltd

PO Box 789

WAVERLEY NSW 2024

info@sentinelapprovals.com.au

**ACCREDITED CERTIFIERS ACCEPTANCE OF SERVICE AGREEMENT**

I hereby agree to provide the nominated services detailed in this Service Agreement and the issued Fee Proposal subject to the terms and conditions attached.

Mr Gavin May

Accredited Certifier BDC3115

Date:

**Building Commission NSW**

**Information about registered certifiers – building surveyors and building inspectors**

**GUIDELINE**

**Important: this is a summary document only.**

Before signing any contract for certification work, make sure you understand your obligations and what you are agreeing to. The Building Commission website has more information about certifiers.

Under section 31(2) of the *Building and Development Certifiers Act 2018* and clause 31 of the *Building and Development Certifiers Regulation 2020*, a contract to carry out certification work must be accompanied by an applicable document made available on the website of the Department of Customer Service (which includes Building Commission NSW)1. This is the applicable document for certification work involving a certifier registered in the classes of **building surveyor** or **building inspector**, working in either the Building Commission’s online register or for a local council.

This document summarises the statutory obligations of the registered certifier who
will assess your development and your obligations as the applicant for the development. It also sets out the types of information that can be found on the Building Commission’s online register of registrations and approvals.

**Obligations of registered certifiers**

The general obligations of registered certifiers include compliance with their conditions of registration, to hold professional indemnity insurance, comply with a code of conduct and avoid conflicts of interest.

**Who does a registered certifier work for?**

A registered certifier is a public official and independent regulator, registered by the Building Commissioner.

Certifiers must carry out work in a manner that is impartial and in the public interest, even if this is not in the interests of the applicant, developer, or builder. Receiving a certificate is not guaranteed – the applicant is paying for the certifier to assess the application and
determine *whether or not* a certificate can be issued.

It is a serious offence to attempt to bribe or influence a certifier, attracting a maximum penalty of $110,000 and/or two years imprisonment.

1 Visit [www.nsw.gov.au/departments-and-agencies/building](http://www.nsw.gov.au/departments-and-agencies/building)-commission.

**Obligations of the applicant**

An applicant is the person seeking a certificate, or engaging a certifier for other certification work, under the *Environmental Planning and Assessment Act 1979.*

As an applicant, you have the following obligations:

* Appoint, and enter into a contract with, your chosen certifier.
* Pay the certifier’s fees before any certification work2 is carried out.
* Communicate with your builder to ensure the certifier is notified when work reaches each stage. If a mandatory inspection is missed, the certifier may have to refuse to issue an occupation certificate.
* Follow any written direction issued by the certifier and provide any requested additional information to assess an application.
* Meet the conditions of any development consent and ensure the development is carried out in accordance with the approved plans.

**What does a registered building surveyor do?**

Registered **building surveyors** issue certificates under the *Environmental Planning and Assessment Act 1979* (construction certificates, complying development certificates and occupation certificates), act as the **principal certifier** for development, and inspect building work.

The principal certifier will attend the site to carry out mandatory inspections at certain stages. When construction is complete, the certifier may issue an occupation certificate, which signifies that the work:

* is ‘suitable for occupation’ – this does not necessarily mean all building work is complete
* is consistent with the approved plans and specifications
* meets all applicable conditions of the approval.

The certifier does not manage or supervise builders or tradespeople or certify that the builder has met all requirements of the applicant’s contract with the builder.

**What does a registered building inspector do?**

Registered **building inspectors** carry out inspections of building work3 with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

2 Building inspectors may inspect class 1 and 10 buildings under the Building Code of Australia; that is, houses, duplexes and the like; garages and sheds; and structures such as swimming pools, retaining walls and fences.



2 Upfront fee payment is required for any work to determine an application for a development certificate or carry out a function of a principal certifier.

3 Building inspectors may inspect class 1 and 10 buildings under the Building Code of Australia; that is, houses, duplexes and the like; garages and sheds; and structures such as swimming pools, retaining walls and fences.

**Principal certifier enforcement powers**

If the principal certifier becomes aware of a non-compliance with the development approval, the certifier must, by law, issue a direction to you and/or the builder, requiring the non-compliance to be addressed. If it is not, the certifier must notify the council which may take further action.

The certifier is also required to respond appropriately if a complaint is made about the development.

**Finding more information on certifiers**

Details of the class of registration each certifier holds, their period of registration, professional indemnity insurance and disciplinary history can be found on the Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission

**Questions?**

The Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission has information about certifiers, enforcement powers, how to replace a certifier and resolving concerns about a certifier.

The NSW Planning Portal at www.planningportal.nsw.gov.au provides information on the NSW planning and development certification system.

Note, although Building Commission NSW regulates certifiers, it does not mediate in contract disputes and does not regulate the actions of councils. Visit the Building Commission NSW website for more information.

|  |  |  |
| --- | --- | --- |
|

|  |
| --- |
| Contact us |
| For more information please contact Building Commission NSW:T: 132700W: nsw.gov.au and search ‘Building Commission NSW’ |

 |