

# Principal Certifying Authority – Service Agreement

Section 109E of the *Environmental Planning and Assessment Act, 1979*

## Part I – Parties’ details

### 1. Principal Certifying Authority (“PCA”) Details

HILLTOPS COUNCIL  
189-205 Boorowa St,  
Locked Bag 5  
YOUNG NSW 2594  
Phone: 02 6380 1200  
Email: mail@hilltops.nsw.gov.au;  
Web: www.hilltops.nsw.gov.au  
ABN: 33 984 256 429

### 2. Applicant’s Details

- Section 109E(1) of the *Environmental Planning and Assessment Act, 1979* states that the applicant must be the land owner or the person having the benefit of the Development Consent or Complying Development Certificate.
- Section 109E(1A) states that no contractor, builder or other person who will carry out work can appoint the Principal Certifying Authority unless that person is the owner of the land.

Owner(s)/Person’s Name:	
Company Name:	
Owner(s)/Person’s Address:	
Phone:	Email:
Owner(s)/Person’s Signature:	
Date:	/ /
If there is more than one owner of the land, every owner must sign. If the owner is a strata plan, consent of the Owners Corporation is required under seal. If the owner is a company or corporation, a director or secretary (or authorised delegate) must sign and the Company Seal be provided.	

### 3. Site Details

Lot No.	Section No.	DP No.
Street/Rural Address No.	Street/Road Name:	
Town/Locality:		

### 4. Type of Development

<input type="checkbox"/> Construction	<input type="checkbox"/> Subdivision
---------------------------------------	--------------------------------------

### 5. Development Consent / Complying Development Certificate Details

OR	Consent No:	Consent date:
	CDC No:	CDC Date:

**Note:** This PCA agreement covers any subsequent modifications to the development consent complying development application or construction certificate unless otherwise determined by Council.

### 6. Description of Development

Floor area (m <sup>2</sup> ):	



**7. Estimated Cost of the Development**

Cost \$	(The full cost of all materials and labour, including GST)
---------	--

**8. Commencement date**

Approximate date:
-------------------

**Note:** If the commencement date is unknown, you must advise Council in writing by completing a “Notice of Commencement of Building and Subdivision Work” form at least 48 hours prior to commencement of work.

**9. Home Building Act, 1989 requirements**

Is it a residential development?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Are you an owner/builder?	<input type="checkbox"/> Yes	Permit No: _____	
	<input type="checkbox"/> No		

**Note:** You must provide a copy of your owner/builder’s permit with this agreement.

**8. Principal Contractors / Builder details**

Name:			
Address:			
Contact person:			
Phone numbers:	Office: _____	Mobile: _____	After hours: _____
Licence No:*	(Attach a copy of the licence)		
Insurance:#	<input type="checkbox"/> Yes <input type="checkbox"/> No		(Attach a copy of the licence)

\*Applies only to residential and/or plumbing/drainage, electrical and mechanical ventilation and refrigeration works).

# Applicable to new residential development and associated buildings (e.g. garage, pergola) or alterations/additions where cost of works is \$20,000 or greater (but not applicable to residential buildings 3 storeys or greater)

**9. Entire agreement**

This agreement constitutes the entire agreement of the parties about its subject matter and supercedes all previous agreements, understandings and negotiations on the subject matter.

**10. Consent**

As the owner/person having benefit of Development Consent, Complying Development Certificate or Construction Certificate, I/we accept the terms and conditions of this service agreement and appoint Hilltops Council as the Principal Certifying Authority for the subject development.

Name:	
Address:	
Phone:	email:
Signature:	
Date:	/ /

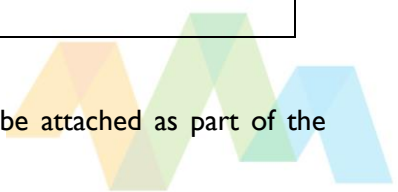
**11. PCA’s Agreement to Appointment:**

Officer’s name:	
on behalf of Hilltops Council, agrees to act as the Principal Certifying Authority for this proposal.	
Signature:	
Date:	/ /

**NOTE:**

Hilltops Council’s agreement to act as the Principal Certifying Authority will be attached as part of the approved Construction Certificate documentation.

All fees are to be paid prior to the release of the Construction Certificate.



## PART 2 – RESPONSIBILITIES OF BOTH PARTIES (Applicant to retain)

### I. Responsibilities of the PCA

#### Quality of Service

- (a) The PCA will carry out the Inspection Services set out below in a professional manner and in accordance with the requirements of the *Environmental Planning and Assessment Act, 1979* (the Act) and Council's Code of Conduct.

#### Site signage

- (b) The PCA will provide you with a sign to erect on site. This sign will advise the public of the PCA contact details.

#### Inspection services

- (c) The PCA will:
- (i) undertake inspections of the building work described as a 'critical stage inspections' during construction;
  - (ii) decide whether the building works comply with:
    - (A) The Development Consent;
    - (B) The Construction Certificate;
    - (C) Complying Development Certificate (where applicable);
    - (D) The Building Code of Australia; and
    - (E) Any other relevant standards of construction; and
  - (iii) Issue an Inspection Result sheet stating that the building works are satisfactory, or provide notification in writing that the works are not satisfactory.

If, after a critical stage inspection, the building works are determined by the PCA to be unsatisfactory then the PCA may issue a notice requiring certain works to be carried out so as to bring the building work into compliance with the items set out in 8(c) (ii) above.

- (d) Issue an Occupation Certificate where the development is completed in accordance with the provisions of the Act and conditions of Development Consent or the complying development certificate.

#### Critical Stage Inspections

Critical Stage Inspections will be set out within the Construction Certificate (if issued by Hilltops Council) and may include but not be limited to the following:

- After excavation (prior to placement of footings)
- Foundation / footings (prior to pouring of concrete)
- Framework (prior to fixing floor, wall and ceiling linings)
- Waterproofing of wet areas (prior to covering)
- Stormwater Drainage (prior to covering)
- Other as specified by PCA
- Finalisation of works (all works completed)



## 2. Your Responsibilities

### Copies of agreement

- a) You must provide a copy of this agreement to the Principal Contractor/ builder, prior to the commencement of any building works.

### Inspections and inspection bookings

- b) Details of all critical stage inspections will be set out on the approved Construction Certificate.
- c) You must give Council a minimum of 24 hours notice (excluding weekends and public holidays) to enable the critical stages of construction to be inspected. Urgent inspections may be possible by arrangement.
- d) **Inspections must be booked in by contacting Council's Customer Service Centre on 02 6380 1200 Monday to Friday prior to 3.00pm for next day inspection.**
- e) You agree the building works will not proceed to subsequent stages of construction prior to obtaining approval from Hilltops Council as PCA for each stage of construction specified in the approved Construction Certificate.
- f) You agree to allow Hilltops Council as PCA to inspect the premises to ensure that the completed works comply with the development consent or complying development certificate.
- g) You acknowledge that a failure to give correct notification of required inspections may result in the issuing of a Notice and Order by the PCA and may result in the refusal to issue an Occupation Certificate.
- h) You acknowledge that unsatisfactory or incomplete works at the time of inspection will be subject to an additional inspection and additional inspection fee.

Any additional inspections over and above those nominated on the Construction Certificate will be charged at Council's standard rate at the time of the inspection and must be paid prior to issue of the Occupation Certificate.

### Compliance notice

- i) Where a Notice requiring works to be carried out is issued by Hilltops Council as PCA, you agree to:-
- (i) Carry out (or cause to be carried out) the works, as set out in the Notice; or
  - (ii) Make representation to the PCA as to the works which are the subject of the notice.

### Structural Engineering and other specialist details

- j) The following details must be forwarded to Hilltops Council as PCA prior to commencement of construction.
- (i) Structural engineering plans and specifications;
  - (ii) Any specialist details as required by the PCA
- k) The details are to be prepared by a suitably qualified person and are to confirm compliance with the relevant provisions of the Building Code of Australia and Australian Standards to the satisfaction of Hilltops Council as PCA.

### Certification of works

- l) You will provide certification to Hilltops Council as PCA, documentation verifying that the following specialist matters have been carried out in accordance with the relevant requirements of the Building Code of Australia and relevant Australian Standards:-

- (i) Installation of termite management system by a licensed installer; and
  - (ii) Waterproofing of wet areas by the accredited waterproofer; and
  - (iii) Installation of glazing by a licensed builder; and
  - (iv) Installation of smoke alarms by a licensed electrician; or
  - (v) Any matters as required by the PCA
- m) Each of the above certificates is required to be prepared by an accredited certifier or other suitably qualified and experienced person and must reference the subject property, the relevant provisions of the Building Code of Australia, relevant Australian Standards and the approved plans, to the satisfaction of Hilltops Council as PCA.

### Occupation Certificate

- n) You agree to obtain an Occupation Certificate prior to the occupation or use of a new building (or part of a building) or prior to the change of an existing building use/classification.
- o) You acknowledge that non-compliance with any part of the Development Consent, Construction Certificate, Complying Development Certificate, Building Code of Australia or other relevant standard of construction may result in a refusal to the issue of an Occupation Certificate.
- p) You must submit an application for an occupation certificate, completing the relevant form and including all relevant attachments. A copy of the form can be found on Council's website. Notwithstanding this, acceptance of this agreement constitutes an application to the Principal Certifying Authority for an interim or final occupation certificate.
- q) You acknowledge that, to issue an occupation certificate for the development, Hilltops Council as PCA is required to ensure compliance with the provisions of the Act and conditions of development consent including the submission of fire safety certificates where applicable.
- r) You agree that it is your responsibility to ensure that all works comply with the approved plans and conditions of development consent.

### Service Fees

- s) You agree to pay the relevant fees for the PCA inspection services ("the fees") and certification services as specified in Hilltops Council's Fees and Charges Schedule (available at [www.hilltops.nsw.gov.au](http://www.hilltops.nsw.gov.au)).
- t) You agree to pay all relevant fees prior to the release of the Construction Certificate.
- u) You agree that additional, or repeat, inspections, or unnecessary callouts will be charged at the standard re-inspection fee rate specified Hilltops Council's Fees and Charges Schedule (available at [www.hilltops.nsw.gov.au](http://www.hilltops.nsw.gov.au)) and **must be paid prior to the issue of an Occupation Certificate.**

### Change of details

- v) You agree to notify Hilltops Council as the PCA in writing of any changes in your details or address or Builder's details or address.

### Site signage

- w) You agree:
- (i) to erect the PCA sign identifying Hilltops Council as the PCA;
  - (ii) that you will maintain that signage until the Final Occupation Certificate is issued; and
  - (iii) that the signage will be removed once the Final Occupation Certificate is issued.

### Conditions of approval

- x) You are required to comply with all conditions of development consent, complying development certificate and / or construction certificate.



## 12. Limitation of liability

### (a) Implied terms and warranties excluded

Apart from Clause 8(a) and subject to Clause 11(c) below, Hilltops Council, as PCA, excludes all implied terms and warranties of any kind, whether statutory or otherwise, relating in any way to this agreement or its subject matter.

### (b) Cap on liability

Subject to Clause 11(c) below the PCA's total liability for loss or damage of any kind not excluded by Clause 11(a) above, however caused, in contract, tort, under any statute or otherwise (including negligence) arising from or relating in any way to this agreement or its subject matter is limited in aggregate for any and all claims to the amount of Fees paid by you.

### (c) Non-excludable terms

Where any Act of Parliament implies in this agreement any term, and that Act voids or prohibits provisions under contract which exclude or modify the operation of such term the term is taken to be included in this agreement. However, the PCA's liability for breach of such term will, if permitted by law, be limited to one of the following remedies (at the PCA's option):

- (i) the resupply of the services; or
- (ii) the payment of the cost of resupplying the services.

### (d) Your contribution

The PCA's liability to you for loss or damage of any kind in contract, tort, under any statute or otherwise (including negligence) arising from or relating in any way to this agreement or its subject matter, is reduced to the extent that you cause or contribute to the loss or damage.

## 13. Termination of the agreement

You acknowledge that under Section 109EA of the Act you may not terminate the agreement and appoint a new PCA without the prior written consent of the Council. The PCA may terminate the agreement if you breach any term of the agreement. No fees will be refunded.

## 13. Governing Law

This agreement is governed by the law in force in New South Wales and each submits to the non-exclusive jurisdiction of the Courts of New South Wales.

