

Certification Deed Poll by Development Proponent

Form S1-PCS-1 – version 01 – effective 16 October 2017

In respect of: [#Insert project details including stage number of approval number]

In favour of: Minister for Economic Development Queensland (ABN 76 590 288 697)
of 1 William Street, Brisbane in the State of Queensland
(the **MEDQ**)

By: The entity named in item 1 of Schedule A
(the **Development Proponent**)

Recitals

- A. The Development Proponent intends to commence construction of the works described in Item 4 of Schedule A (the **works**) in respect of the land described in Item 5 of Schedule A (the **Land**).
- B. The Development Proponent makes this Deed Poll in favour of the MEDQ.

This Deed Poll provides:

1. Responsibilities and obligations

- 1.1. The Development Proponent must, prior to commencing construction of the works ensure that:
- (a) each person to be named as the Project Coordinator, Certifier and Project Auditor (as required) in relation to the works has signed the relevant Certification Deed Poll required under the CPM or any Infrastructure Agreement described in Item 3 of Schedule A (the **Infrastructure Agreement**) and
 - (b) the MEDQ has given written notice to the Development Proponent that it accepts the nomination of each person named as the Project Coordinator, Certifier and Project Auditor in relation to the works.
- 1.2. The Development Proponent acknowledges that the MEDQ may reject the nomination of any person and refuse to accept their Certification Deed Poll, in its absolute discretion, on the basis that:
- (a) the person is not suitably qualified or experienced
 - (b) the person is not sufficiently independent to the Development Proponent
 - (c) the person is not suitable because of unsatisfactory conduct or professional misconduct
 - (d) the person does not hold the requisite insurances or
 - (e) the information contained in any document signed by the person is inadequate or inaccurate.



- 1.3. The Development Proponent must:
 - (a) ensure that all work undertaken by the Project Coordinator, Certifier and Project Auditor appointed by the Development Proponent and accepted by the MEDQ is in accordance with the PDA development approval described in Item 2 of Schedule A (the **PDA development approval**) and the Infrastructure Agreement, and
 - (b) allow the MEDQ and its officers, agents, consultants, contractors and subcontractors reasonable access to the Land to inspect the works on the Land as they proceed.
- 1.4. The Development Proponent must comply with the requirements of the CPM, the PDA Development Approval and the Infrastructure Agreement in respect of the works and, in particular, any works which will become a Contributed Asset.
- 1.5. The Development Proponent must comply with the requirements of the CPM, the PDA Development Approval and the Infrastructure Agreement with respect to providing Security to the MEDQ in the form of an Uncompleted Works Bond and Maintenance Bond.
- 1.6. To remove any doubt, this Deed Poll does not limit any of the responsibilities and obligations of the Development Proponent under the CPM, any relevant PDA Development Approval, any relevant Infrastructure Agreement, the *Economic Development Act 2012* or otherwise at Law.
- 1.7. The Development Proponent must replace the Project Coordinator, Certifier or Project Auditor (as the case may be) as soon as possible after becoming aware of any of the following events:
 - (a) death, serious illness, or change of employment of the Project Coordinator, Certifier or Project Auditor
 - (b) any form of unsatisfactory conduct or professional misconduct by the Project Coordinator, Certifier or Project Auditor
 - (c) where the Project Coordinator, Certifier or Project Auditor ceases to be suitably qualified or experienced to lawfully and with due care, skill and diligence perform the functions for which they have been appointed
 - (d) where the Project Coordinator, Certifier or Project Auditor ceases to be sufficiently independent to the Development Proponent in the performance of the functions for which they have been appointed
 - (e) where the Project Coordinator, Certifier or Project Auditor has failed to maintain the insurances required by the CPM
 - (f) any material breach of the obligations of the Project Coordinator, Certifier or Project Auditor under the relevant Certification Deed Poll that remains unrectified or, if the breach is not capable of rectification, a mitigation plan to address the breach has not been prepared and implemented, after a reasonable period or
 - (g) personal insolvency of the Project Coordinator, Certifier or Project Auditor or insolvency of any company employing them.

2. Term of Deed

- 2.1. This Deed Poll takes effect from the date it is signed by the Development Proponent until the Works have been accepted as Off-Maintenance by the MEDQ in accordance with the CPM or the Infrastructure Agreement (as the case may be).
- 2.2. This Deed Poll may not be revoked or amended by the Development Proponent without the prior written approval of the MEDQ.

3. Definitions and Interpretation

3.1. Definitions

In this Deed Poll:

- (a) **CPM** means the Certification Procedures Manual dated 8 September 2017, as amended from time to time.
- (b) Undefined terms have the meaning given to them in the CPM or the Infrastructure Agreement, as the case may be.
- (c) Capitalised terms have the meaning given to them in the CPM.

3.2. Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after *includes*, *including*, *for example*, or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise:
 - i. The singular includes the plural, and the converse also applies.
 - ii. A gender includes all genders.
 - iii. If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - iv. A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - v. A reference to conduct includes an omission, statement or undertaking, whether in writing or not.
 - vi. A reference to an *Agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether in writing or not, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
 - vii. A reference to a clause is a reference to a clause in this Deed Poll.
 - viii. If any words are italicised or otherwise printed differently, this has been done for convenience only and does not affect the construction of this document.
 - ix. A reference to *dollars* and \$ is to Australian currency.
 - x. A reference to *time* is to local time in Queensland.
 - xi. All schedules to this document form part of this document and a reference to an 'item' is a reference to an item in Schedule A.

Schedule A

Item	Reference	Description
1.	Development Proponent	Name: ACN/ABN: Address: Contact number: Email address:
2.	PDA development approval and relevant condition	DEV / Condition No.:
3.	Infrastructure Agreement, date and relevant clause	Name: Date: Clause No.:
4.	The works	
5.	Land where the works will be carried out	Real property description: Address:

Executed and delivered as a Deed Poll at [#insert place of signing].

******Note: Redundant signing clause to be deleted prior to signing**

Executed by [#insert name of company and ACN], in accordance with section 127 of the *Corporations Act 2001* on this [#insert date] day of [#insert month] [#insert year]:

Signature of Director

Signature of Director/Secretary

Name of Director - Print

Name of Director/Secretary – print

OR

Executed by [#insert name of company and ACN] on this [#insert date] day of [#insert month] [#insert year] by its duly constituted Attorney under Power of Attorney Dealing No. [#insert Dealing no.] who declares he has received no notice of revocation of the Power of Attorney in the presence of:

Signature of Witness

Signature of Attorney

Name of Witness - Print

Name of Attorney - Print

OR

Individual Execution

Executed by [#insert full name of individual] as Development Proponent in the presence of:

Signature of Witness

Signature of Development Proponent

Name of Witness - Print

Information collected is also subject to the Right to Information Act 2009 and the Information Privacy Act 2009. The information provided may be publicly released and/or provided to third parties (including Local Government Association of Queensland, Queensland Resource Council, APPEA and others) and other government agencies—but only for the purposes for which the information is being collected. The Proponent's personal information will be stored on departmental files and may be disclosed for purposes required by law.