

Certification Deed Poll by Certifier

Form S1-PCS-3 – 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 2 of Schedule A
(the **Entity**)

And By: The person named in Item 3 of Schedule A
(the **Certifier**)

Recitals

- A. The Development Proponent described in Item 1 of Schedule A is required under the PDA development approval described in Item 4 of Schedule A (the **PDA development approval**) or any Infrastructure Agreement described in Item 5 of Schedule A (the **Infrastructure Agreement**) to provide the works described in Item 6 of Schedule A (the **works**) in respect of the land described in Item 7 of Schedule A (the **land**).
- B. The Development Proponent proposes to appoint the Certifier as a Certifier for the works and other matters that may be subject to assessment under any relevant PDA development approval and the Infrastructure Agreement, subject to the MEDQ's acceptance of such appointment.
- C. The CPM and the Infrastructure Agreement require this Deed Poll to be signed by the appointed Certifier.
- D. The entity and the Certifier make this Deed Poll in favour of the MEDQ.

This Deed Poll provides:

1. Certifier

- 1.1 The Certifier is [an/a] [employee/contractor/consultant/partner] [of/in] the entity.
- 1.2 The Certifier has the relevant educational and professional qualifications described in Item 8 of Schedule A.
- 1.3 The Certifier's professional registration details are described in Item 9 of Schedule A.

2. Pre-Construction stage

- 2.1 The Certifier must, prior to the commencement of construction of the works:
 - (a) identify and advise the project coordinator of the relevant standards applicable to the works or other matters that will be subject to assessment by the MEDQ under the relevant PDA development approval and the Infrastructure Agreement



- (b) identify and advise the Project Coordinator of the risks associated with the works and other matters requiring assessment under the PDA development approval or the Infrastructure Agreement, and
- (c) duly complete, sign and provide to the Project Coordinator the Pre-Construction certification form in accordance with the CPM or the Infrastructure Agreement certifying that the Pre-Construction design complies with the PDA development approval and the Infrastructure Agreement.

3. Construction stage

3.1 During construction of the works, the Certifier must:

- (a) confer with other Certifiers nominated by the Development Proponent whose appointment has been accepted by the MEDQ in relation to the works to ensure there are no conflicts between the standards to be achieved in different certification disciplines as soon as practicable after they arise and in consultation with the Project Coordinator
- (b) certify the works or other matters that are subject to assessment under the PDA development approval and the Infrastructure Agreement, including duly completing and signing the post-construction certification form in accordance with the CPM or the Infrastructure Agreement and providing it to the Project Coordinator, and
- (c) notify the Project Coordinator in writing as soon as practicable after the Certifier becomes aware of any non-conformances with the conditions of the relevant PDA development approval and provisions of the Infrastructure Agreement.

4. Post-Construction stage

4.1 Following construction of the works, the Certifier must take the following steps in accordance with the CPM or the Infrastructure Agreement:

- (a) provide to the Project Coordinator a schedule of the completed value of the works subject to handover as a contributed asset
- (b) provide to the Project Coordinator the duly completed and signed post-construction certification form
- (c) attend any On-Maintenance inspection arranged by the project coordinator
- (d) attend any Off-Maintenance inspection arranged by the project coordinator
- (e) prepare a list of the defects identified in preparation for the on or Off-Maintenance inspections
- (f) provide to the Project Coordinator a duly completed and signed Off-Maintenance request form.

5. Responsibilities and obligations

5.1 At all times, the Certifier must:

- (a) ensure that all documents prepared by the Certifier to be given to the MEDQ do not contain information that is false or misleading to the best of the Certifier's knowledge and
- (b) advise the MEDQ in writing immediately on becoming aware that any document given to the MEDQ (whether prepared by the Certifier or not) contains information that is false or misleading.

5.2 The Certifier must co-operate with any auditor engaged by the MEDQ (the **MEDQ Auditor**) and promptly provide copies of all documents requested by the MEDQ Auditor.

5.3 The Certifier must carry out his responsibilities and obligations under this Deed Poll with due care, skill and diligence.

5.4 To remove any doubt, this Deed Poll does not limit any of the responsibilities and obligations of the Certifier under the CPM, any relevant PDA development approval, any relevant Infrastructure Agreement, the *Economic Development Act 2012* or otherwise at Law.

6. Insurance

6.1 The entity must hold and maintain for the term of this deed (unless this Deed Poll is revoked, in which case the relevant period is six (6) years after revocation):

- (a) professional indemnity insurance from an Insurance Company to the value of \$5,000,000 or a higher amount required by the MEDQ in accordance with its standard policies or procedures
- (b) public liability insurance from an Insurance Company to the value of \$20,000,000 or a higher amount required by the MEDQ in accordance with its standard policies or procedures, and
- (c) any other insurance required by Law.

6.2 The insurance policies held and maintained by the entity under clause 6.1 of this Deed Poll must cover the acts or omissions of the Certifier.

6.3 The details of the insurance held by the entity as required by this Deed Poll are described in Item 10 of Schedule A.

6.4 The entity must produce a copy of the certificate of currency for an insurance policy held in accordance with clause 6.1 of this Deed Poll following a request made in writing by the MEDQ.

7. Term of deed

7.1 This Deed Poll is in effect for a period of seven (7) years from either:

- (a) the date it is signed by the Certifier or
- (b) the date the works are completed and accepted Off-Maintenance under the CPM or the Infrastructure Agreement,

whichever is the later, unless it is revoked earlier on the terms of this Deed Poll (the **term of this deed**).

7.2 This Deed Poll may not be revoked or amended by the entity or the Certifier without the prior written approval of the MEDQ.

8. Definitions and interpretation

8.1 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.

8.2 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.	Entity	Name: ACN/ABN: Address: Contact number: Email address:
3.	Certifier	Name: ACN/ABN: Address: Contact number: Email address:
4.	PDA development approval and relevant condition	DEV / Condition number:
5.	Infrastructure Agreement, date and relevant clause	Name: Date: Clause number:
6.	The works	
7.	Land where the works will be carried out	Real property description: Address:
8.	Certifier's relevant educational and professional qualifications (documentation may be attached to this Deed Poll, if necessary)	
9.	Certifier's professional registration	
10.	Insurance	(a) Professional indemnity insurance
		Amount (must not be less than \$5,000,000.00 or a higher amount required by the MEDQ in accordance with the MEDQ's standard policies or procedures)
		Provider:
		Policy number:
		Date of commencement of policy:
		Expiry date:

		(b) Public liability insurance	
		Amount (must not be less than \$20,000,000.00 or a higher amount required by the MEDQ in accordance with the MEDQ's standard policies or procedures)	
		Provider:	
		Policy number:	
		Date of commencement of policy:	
		Expiry date:	
		(c) Other insurance	
		Amount:	
		Provider:	
		Policy number:	
		Date of commencement of policy:	
		Expiry date:	

Executed and delivered as a Deed Poll by the Entity 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

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

Signed sealed and delivered by [#insert full name of individual] as Certifier in the presence of:

Signature of Witness

Signature of Certifier

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.