



**mb+ Plan Endorsement -
Accreditation model and application
kit**



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1.0 Introduction

The mb+ Assessment initiative has been developed to streamline the plan endorsement process by providing improved

- certainty of timeframes
- clarity of requirements
- processing efficiencies
- utilisation of resources

mb+ Assessment allows suitably qualified professionals to prepare and endorse Plan Sealing applications as nominated in this Accreditation Kit. mb+ Assessment by professional consultants relies on two specific processes to be in place to ensure its efficiency. These processes are as follows:

- The development of clear standards for all nominated works based on the planning scheme and its associated codes, and adopted Council policies; and
- Creation of a system wherein Council could reasonably rely on a suitably qualified consultant's certified application and approve the Survey Plan (also commonly called Plan Endorsement or Plan Sealing) in significantly reduced timeframes.

The aim of mb+ Assessment is to reduce timeframes and impacts on industry and Council, and to increase accountability through the utilisation of professional consultants.

2.0 Description of accreditation

The accreditation process, coupled with the clear standards and criteria, seeks to implement a more efficient mechanism for approving a Survey Plan.

The accreditation of professional consultants and consultancies is a voluntary process of being certified as meeting minimum requirements designated by an accrediting system. It provides a mechanism for Council to be able to reasonably rely on a consultant's professional qualifications. Its aim is to ensure the integrity of the process and qualify only consultants who, by reason of their expertise, experience and established integrity can be relied upon to properly use the mb+ Assessment process and to provide relevant documentation to Council.

Applicants lodging in this way are agreeing to follow and abide by a procedure laid down by Council. Random auditing will be undertaken to assess and monitor the competence of accredited professionals.

To utilise such a process requires experience with lodging competent applications, knowledge of the *Planning Act 2016 (PA)*, *Land Title Act 1994 (LTA)* and *Body Corporate & Community Management Act (BCCM)* familiarity with the

mb+ Plan Endorsement accreditation kit

Council's planning scheme and policies, and an established reputation with Council that the user demonstrates high level of reliability.

To undertake mb+ Assessment, accreditation for both the individual and the firm/consultancy are required. It is critical that the individual has demonstrated the required level of expertise and experience. Equally the consultancy must demonstrate they hold the required insurance policy, as it is the firm that will ultimately take responsibility for rectifying any breaches or failures to infrastructure. Where an Accredited Consultant moves from one firm to another, the individual consultant is not required to reapply for accreditation provided they are moving from one Accredited Consultancy to another.

Accreditation categories

An accredited Consultant and Consultancy is eligible to submit applications for Plan endorsement for the following:

- Building Format Plans - subdivision of existing buildings
- Building Format Plans - subdivision of new buildings
- Standard Format Plans - realignment of boundaries
- Standard Format Plans - subdivision of land

3.0 The Accreditation Kit

This Accreditation Kit contains all the relevant material to assist **Consultants** and **Consultancies** in obtaining accreditation and outlines Council's expectations. The Accreditation Kit adopted for the mb+ Assessment process is at Appendix A and contains the following documents:

- Accreditation Application Form for Consultants and Consultancy;
- Guidelines for Accredited Consultant/Consultancy;
- Accreditation Deed for Consultant; and
- Accreditation Deed for Consultancy.

Accreditation Application Form

The ability to qualify as an 'Accredited Consultancy' is available provided the relevant specified criteria are met. The qualifications/experience includes criteria within the following categories:

3.1. **Professional and Public Indemnity Insurance.**

Each 'Accredited Consultancy' must have Professional and Public Indemnity Insurance to cover the provision of this service. Insurance demonstrates that the organisation and its employed/contracted consultants have met professional requirements to obtain insurance and

have a business enterprise that is sufficiently robust to require financial protection. Additionally, Council may under certain circumstances, obtain access to this insurance if the individual (or organisation) were to engage in fraudulent or misleading activities.

3.2. Demonstrated knowledge by the consultant of the relevant planning scheme, plan endorsement processes and provisions held therein as well as the relevant planning legislation and other legislation. This may be achieved through providing evidence of lodging a significant number of relevant applications to the Council, in a recent timeframe that demonstrates a detailed understanding of the relevant requirements and processes for plan sealing and bonding in Council. This includes, but is not limited to demonstrated:

- 3.2.1.1.** ability to prepare plan endorsement application to Council standard;
- 3.2.1.2.** ability to prepare Compliance Reports to certify that development conditions have been complied with;
- 3.2.1.3.** knowledge of Council's Bonding Policy on uncompleted works; and
- 3.2.1.4.** Demonstrated knowledge of preparation of legal documentation (e.g. easement, covenant, surrender of easement, Form 18, Form14 and transfer documents)

Guidelines for Accredited Consultant/ Consultancy

In order to ensure compliance with the requirements of the accreditation process, guidelines have been developed that clearly articulate the roles and responsibilities of the 'Accredited Consultant/Consultancy' and any other interested party. It is recognised that both parties (Council and the 'Accredited Consultant/Consultancy') must possess a detailed understanding of the process to guarantee its success.

The 'Guidelines for Accredited Consultant/Consultancy' clearly outline a step-by-step process which identifies

- the requirements for the lodgement of an application under mb+ Assessment process;
- the timeframe or indicative timeframe by which Council will issue an approval having relied on the accreditation;
- a probationary period where required; and
- an auditing process.

Accreditation Deed for Consultant and Accreditation Deed for Consultancy

The 'Accredited Consultant/Consultancy' must agree to the terms and conditions of the process before Council can reasonably rely on their expert advice. This is achieved by documenting the roles and responsibilities of both the

'Accredited Consultant/Consultancy' and Council, and requiring a signature of acceptance of these terms. The documents that formalise this arrangement for consultants and consultancies are titled the 'Accreditation Deed for Consultant' and 'Accreditation Deed for Consultancy' (the Deeds) and are attached to this Accreditation Kit.

The roles and responsibilities of each party participating in this Accreditation Process are clearly articulated within these two deeds. This ensures that all have a clear understanding of their role in the process and have no recourse for not following the rules set down through this process. Any non-compliance with the criteria and information provided by Council may be grounds for removal of accreditation for both the consultant and the consultancy. Council may also undertake proceedings to have any errors by the consultant on behalf of the Consultancy rectified.

The Deeds are legally binding. It is the basis on which Council will rely on the expert advice provided by the consultant.

4.0 Qualifying Accredited Consultants and Consultancies

Meeting the accepted criteria to qualify as an 'Accredited Consultant and Consultancy'

The Consultant and Consultancy is required to submit an application to Council supported by documentation demonstrating how they meet the criteria outlined by Council. If a consultant and consultancy achieves the acceptable criteria for accreditation, that consultant and consultancy will become accredited and will be able to participate in the mb+ Assessment process.

This accreditation may only apply to the specific compliance assessment of a document or work that the applicant is qualified in and does not allow the consultant to assess applications under mb+ Assessment in which they have not demonstrated the necessary competence.

Council may outline responsibilities and impose conditions on the accreditation of a consultant and/ or consultancy. If the 'Accredited Consultant or Consultancy' breaches the terms of the accreditation, Council may remove accreditation depending on the severity of the breach.

Agreeing to be bound to the Guidelines

The 'Accredited Consultant and Consultancy' must sign the terms and conditions applied by Council in the Deeds

5.0 Monitoring the Process

Monitoring the activity of Accredited Consultant and Consultancy

In order to ensure that the 'Accredited Consultant and Consultancy' are complying with requirements of Council, a post-approval audit process may be undertaken. This post-approval audit allows Council to determine how well the process is working, any inconsistencies or issues with their criteria or process, and whether Accredited Consultants are complying with the requirements of the process

Disciplinary action for minor breaches

Any breach is grounds for Council to undertake a detailed assessment of all plan sealing applications lodged by the consultant and the consultancy and thus for their removal from the list of 'Accredited Consultants and Consultancies.' Council may however at its discretion, consider issues such as the severity of the alleged breach, the responsiveness of the consultant to the breach and history of the consultant and the consultancy they represent in determining an appropriate course of action. In these cases, the severity of the breach will dictate the disciplinary action to be taken. Below are five primary disciplinary actions that Council may take in order of severity (Note that the decision of what action to take resides with Council):

- Notice to applicant for the first minor discrepancy;
- Return to a probation period for a set number of applications and subject to an extended approval timeframe;
- Removing the ability to lodge under mb+ Assessment for a set period of time (suspension);
- Cancellation of accreditation of the 'Accredited Consultant and Consultancy'; and
- Development Compliance/Enforcement action if necessary.

Council may, under certain circumstances, obtain access to the insurance of the individual (or consultancy) were to engage in fraudulent or misleading activities.

Note: that all disciplinary actions that are imposed on a particular consultant will also be imposed on the consultancy they represent. The expectation is that the participating consultancy develops their own quality assurance process regarding mb+ Assessment.

6.0 Glossary

Accredited Consultant

A consultant that has demonstrated adequate competency to be considered 'accredited' for the purposes of this Accreditation Process, the accreditation is valid for an individual consultant whilst under the employment of their current consultancy. In the event of the consultant ceasing employment with the Accredited Consultancy the accreditation shall be suspended or removed unless the consultant is moving to a consultancy that also has the required accreditation.

Accredited Consultancy

A consultancy that has demonstrated sufficient insurances to be considered 'accredited' for the purposes of this Accreditation Process, the accreditation is valid for a consultancy whilst an Accredited Consultant is under their employment. In the event of the consultant ceasing employment with the Accredited Consultancy or the Accredited Consultancy's inability to demonstrate sufficient insurance, the accreditation shall be suspended or removed.

Compliance report

The compliance report is a detailed report submitted with an mb+ application as per Appendix A, and clearly details that the applicant has complied with all conditions of the approval, and all conditions of any related approval, that are required to be completed prior to Council's endorsement of the Survey Plan. Where the relevant conditions require works to be completed, the applicant may bond uncompleted works to allow earlier endorsement of the Survey Plan in accordance with Council's Policy 13-2150-069 'Approval of Subdivision Plan Prior to Completion of all Subdivision Works'.

The compliance report may be in the form of a table/and or written statements, and include all necessary evidence of compliance with the relevant conditions

DA Rules

Development Assessment Rules; *refer to section 68 of Planning Act 2016.*

PA

Planning Act 2016 (formerly the Sustainable Planning Act 2009)

7.0 Relevant Legislation

Planning Act 2016 (Qld) (PA)

Planning Regulation 2017 (Qld) (PR)

Sustainable Planning Act 2009 (Qld) (SPA)

Integrated Planning Act 1997 (Qld) (IPA)

Land Title Act 1994 (Qld) (LTA)

Local Government Act 1993 (Qld) (LGA)

Body Corporate and Community Management Act 1997 (Qld) (BCCM)

Available for viewing at: <http://www.legislation.qld.gov.au>

8.0 Appendix A - Accreditation Kit

A consultant applying for accreditation is required to complete and submit the four forms listed below and included within the Plan Endorsement accreditation and application kit.

A1: Accreditation Application Form

A2: Guidelines for Accredited Consultant/Consultancy

A3: Accreditation Deed for Consultant

A4: Accreditation Deed for Consultancy

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**mb+ Plan Endorsement accreditation-
A1 Accreditation application form**



ABN: 92 967 232 136

PO Box 159 Caboolture QLD 4510 | T 07 3205 0555 | E mbrc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

Consultancy details:

Name of Consultancy

Postal address:

Work/Business phone:

Email:

Name of Director:

Signature of Director:

Date:

Consultant details:

Mr Mrs Ms Miss

Full name:

Work/Business phone:

Mobile:

Signature of Consultant

Date

Application requirements

To qualify for accreditation for mb+ Assessment the following must be submitted and complied with:

1. Completed Accreditation Kit forms: A2 - Guidelines for Accredited Consultant/Consultancy; A3 Accreditation Deed for Consultant; and A4 Accreditation Deed for Consultancy.
2. A covering letter which, explicitly outlines the individual has the necessary experience/knowledge of the following:
 - a. Demonstrated ability to prepare Survey Plans to Council standard
 - b. Demonstrated ability to prepare Compliance Reports
 - c. Demonstrated knowledge of Council's Policy '13-2150-069' Approval of Subdivision Plan Prior to Completion of all Subdivision Works' and bonding uncompleted works

- d. Demonstrated knowledge of preparation of legal documentation in relation to easements, land transfers and covenants
- e. Applicable Council standards/policies
- f. Planning Regulation 2017
- g. Single State Planning Policy and
- h. Applicable Australia Standards
3. Provide examples of three (3) plan endorsement applications lodged and approved within the last 18 months identifying the following:
 - a. Details of the Compliance Report and the general completeness of the applications (e.g. sufficient details stating compliance with all conditions of approval) and
 - b. The resulting actions stemming from any PA Enforcement Notice or SPA Action Notice.
4. Copy of professional indemnity insurance Certificate of Currency and Policy Schedule to the value of \$5,000,000.

Process following accreditation

An initial one-on-one session with Council officer coordinating mb+ Assessment will occur following accreditation to:

- Introduce the Accredited Consultant(s) to the standards and criteria
- Reaffirm general expectations and
- Discuss queries from the Accredited Consultant(s).

Contact

Council's Development Services team may be contacted on the details below:

Telephone: (07) 3205 0555

Email: mbrc@moretonbay.qld.gov.au

Third Party Certification information is available on Council's website: www.moretonbay.qld.gov.au.

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mb+ Plan Endorsement accreditation- A2 - Guidelines for Accredited Consultant/Consultancy

Guidelines for Accredited Consultant/Consultancy:

The purpose of this practice guideline is to inform the Accredited Consultant/Consultancy of the operational nature of mb+ Assessment.

This approach offers an opportunity to advance partnerships, assist in delivering services to the community, and provide an innovative approach to service delivery. The process offers a means of fostering a stronger relationship with industry colleagues by quickly deciding applications considered straightforward. It achieves this by effectively allowing Council to rely upon information from an Accredited Consultancy/Consultancy, whilst retaining the decision making powers, thus avoiding any duplication of effort. In terms of benefits to industry, it is envisaged that the application assessment period will be significantly reduced, and the Accredited Consultant/Consultancy is more closely involved in the development process.

The Accredited Consultant/Consultancy is responsible for providing to Council the following:

- Complete Accreditation Kit documents (Guideline, Application Form and Deeds of Agreement);
- Covering letter demonstrating experience and knowledge as outlined as the qualifying criteria;
- Evidence of 3 plan endorsement applications lodged and approved within the last 18 months; and
- Copy of professional indemnity insurance Certificate of Currency and Policy Schedule.

Council will endeavour to endorse a Plan of Survey within 5 business days of lodgement.

Note: mb+ Assessment transfers responsibility to the Accredited Consultant/Consultancy to ensure supporting reports and plans are accurate and contain sufficient detail as would otherwise be required by Council for review. If issues arise in future, Council may take legal steps against the Accredited Consultant/Consultancy to rectify the issue or matter.

The Consultant and Consultancy must sign a Deed of Agreement with Council, which confirms the roles and responsibilities of the Accredited Consultant/s and is the basis on which Council and the Accredited Consultant/Consultancy will participate in the mb+ Assessment process.

The mb+ Assessment process is outlined below:

Stage 1 - Accredited Consultants

- Consultant and Consultancy complete and submit to Council the Accreditation Kit documents including Guidelines, Application Form and Deeds of Agreement.
- Council provides written confirmation of the certification of the Accredited mb+ Consultant.

Stage 2 - Prepare documentation

- Accredited Consultant prepares survey plans and any other relevant documentation such as easement and bonding documentation. Council has Standard Terms documents that can be used by the applicant's solicitors for preparation

of easement documents prior to lodging a plan endorsement application.

- Accredited Consultant completes the mb+ Accredited Consultant Plan Endorsement Application Form including Compliance Report demonstrating compliance with development approval, relevant approvals and any referral agencies conditions.
- The Accredited Consultants are required and entrusted with the responsibility to ensure all conditions of development have been addressed and completed and that all other outstanding issues have been resolved, including bonding of uncompleted works.

Stage 3 - Lodge application

- Accredited Consultant lodges complete and assessed mb+ application with Council.
- mb+ applications must meet the following criteria:
 - The application is Properly Made (DA forms, applicable fees and portable long service levy);
 - The infrastructure charges and all outstanding rates and fees are paid on the day of lodgement in accordance with the quotation;
 - All necessary documentation outlined in the mb+ Plan Endorsement Application Form is included; and
 - Any other relevant material that has been used to determine the application is provided.

Probation program

The probation period is generally for the first three (3) applications lodged as part of the mb+ Assessment process. Under probation, Council will undertake an audit of the application prior to its approval. The probation program is to provide Council and the consultant with an understanding of the mb+ Assessment process. The decision timeframes during the probation period will be longer to allow for council audits and reviews.

Auditing

Auditing will be performed by Council, at the Council's discretion, to assess the adequacy of the process and the performance of the individual consultants.

Council may contact the Accredited Consultant/Consultancy during the audit process for information or assistance.

Miscellaneous

Any omissions, errors or misdirection's will be discussed with the consultant and are grounds for removal from the mb+ Assessment process. Council may also undertake legal steps to rectify said errors or misdirection's.

All standard templates, forms, criteria and conditions will be provided to the Accredited Consultant/Consultancy and can also be obtained from the Development Services team.

Declaration

I *(insert name)*

are employed by *insert employer/company below*

with the ACN of

I have read the above and agree to adhere to the Guidelines for Accredited Consultant/Consultancy.

Signature:

Date"

Privacy statement

Moreton Bay Regional Council is collecting your personal information for the purpose of development application services. The collection of this information is authorised under Planning Act 2016 (Qld). Your information will not be given to any other person or agency unless you have given us permission or we are required by law.



mb+ Plan Endorsement accreditation- A3 - Accreditation Deed for Consultant



ABN: 92 967 232 136

PO Box 159 Caboolture QLD 4510 | T 07 3205 0555 | E mbrc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

Made as a Deed

This Deed is made on the _____

day of _____ 20 _____

between

Moreton Bay Regional Council
2 Hasking Street, Caboolture
P.O Box 159
Caboolture QLD 4510
(‘Moreton Bay Regional Council’)

and

Consultant's
name:

Consultant's
address:

As an employee
or contractor of
(insert Accredited
Consultancy name):

with the ACN of
Accredited Consultancy:

(“Accredited Consultant”)

in relation to the Accredited Consultant performing mb+
Assessment services for Moreton Bay Regional Council

Recitals

- A. The Accredited Consultant as an employee or contractor of the Accredited Consultancy wishes to provide mb+ Assessment services under the mb+ Assessment process to Moreton Bay Regional Council.
- B. The Moreton Bay Regional Council requires the Accredited Consultant to undertake to preserve and maintain the confidentiality of certain information relevant to those services.
- C. The process and services relevant to mb+ Assessment are set out in the Guidelines for Accredited Consultant/ Consultancy.
- D. The Development Services Manager is authorised to sign this Deed on behalf of Moreton Bay Regional Council.

Terms and conditions

1. Definitions and interpretation

The following terms shall have the following meaning for the purpose of this Deed.

‘**Accredited Consultant**’ is the individual considered ‘accredited’ for the purposes of mb+ Assessment. The

individual consultant must demonstrate the required level of expertise and experience to obtain accreditation.

‘**Accredited Consultancy**’ means the body corporate named in the Accreditation Application Form completed by the Accredited Consultant for the Accreditation Process.

‘**Accreditation Process**’ means the process and assessment procedures for becoming an Accredited Consultant, as specified by the Moreton Bay Regional Council and which has been completed by the Accredited Consultancy.

‘**Authorised User**’ has the meaning given to that term by the Trade Marks Act 1995 (Cth)

‘**Confidential Information**’ means the Confidential Information of the Moreton Bay Regional Council and includes any documents or information provided by the Moreton Bay Regional Council: (a) that are marked as confidential; (b) that are provided by the Moreton Bay Regional Council under circumstances or communications that are confidential; or (c) which the Accredited Consultant ought to know are confidential but (in respect of any of the information in (a), (b), and (c) of this definition), does not include any information that is or becomes part of the public domain, other than as a result of a breach of an obligation of confidence or any information that is required to be disclosed by law.

‘**Deed**’ means this Accreditation Deed

‘**Guidelines for Accredited Consultant/Consultancy**’ means the guidelines titled Guidelines for Accredited Consultant/ Consultancy which are attached to this Deed, as amended by the Moreton Bay Regional Council from time to time.

‘**Intellectual Property Rights**’ means all intellectual and industrial property rights and interests in Australia and throughout the world, whether registered or unregistered and whether created before, on or after the date of the Deed, including trademarks, designs, patents, inventions, circuit layouts, copyright and analogous rights, confidential information, know how trade secrets and all other Intellectual Property Rights.

‘**List of Accredited Consultants**’ means the list of Accredited Consultants as from time to time may be published by the Moreton Bay Regional Council and in the manner of publication or disclosure determined by Moreton Bay Regional Council.

‘**Plan Endorsement**’ means the approval or sealing of a Survey Plan of Plan of Subdivision.

‘**mb+ Assessment Service**’ means the Third Party Accredited Consultant Development Assessment services, which the Moreton Bay Regional Council specifies from time to time including, but not limited to, preparation of mb+ Assessment compliance plan endorsement applications.

‘**Term**’ means the term of this Deed, as determined by clause 5.1.

2. Accredited Consultants obligations

- 2.1. The Accredited Consultant hereby represents and warrants to the Moreton Bay Regional Council, and it is a condition of this Deed that the Accredited Consultant:
 - 2.1.1. provided information to the Moreton Bay Regional Council during the Accreditation Process that was true, accurate and correct and will continue to provide information during its performance of the mb+ Assessment process that is true, accurate and correct;
 - 2.1.2. has disclosed to the Moreton Bay Regional Council the locations of all the Accredited Consultant's premises;
 - 2.1.3. will immediately inform the Moreton Bay Regional Council in writing of any changes to the Accredited Consultant's employment by the Accredited Consultancy, and any other information provided or disclosed by the Accredited Consultant during the Accreditation Process;
 - 2.1.4. will keep itself informed of any changes made by the Moreton Bay Regional Council to the Guidelines for Accredited Consultant/Consultancy
 - 2.1.5. will carry out mb+ Assessment Services safely, securely and in a professional manner;
 - 2.1.6. will carry out the mb+ Assessment Services in accordance with the standards specified by the Moreton Bay Regional Council from time to time including in the Guidelines for Accredited Consultant/Consultancy and as required by law; and
 - 2.1.7. will comply with the lawful advice and directions of the Moreton Bay Regional Council made in connection with the mb+ Assessment Process.
- 2.2. Other than as expressly set out in this Deed, this Deed does not licence, assign or transfer to the Accredited Consultant any Intellectual Property Rights of the Moreton Bay Regional Council or any goodwill in the same.
- 2.3. The Accredited Consultant acknowledges that benefits, rights and privileges attached to the accreditation of the Accredited Consultant are limited to the type of use the Accredited Consultant/Consultancy is qualified and demonstrates competency in, as determined by the Moreton Bay Regional Council (e.g. Industrial, Residential, Reconfiguring a Lot etc.). The Accredited Consultant must not perform any mb+ Assessment Services that, in the opinion of the Moreton Bay Regional Council, fall outside the limitations of the accreditation of the Accredited Consultant.
- 2.4. The Accredited Consultant acknowledges that any non-compliance with or breach by the Accredited Consultant of the Guidelines for the Accredited Consultant/Consultancy or the terms of this Deed in the conduct or operation of mb+ Assessment Services by the Accredited Consultant for or on behalf of the Moreton Bay Regional Council will provide the Moreton Bay Regional Council with the option to elect to immediately cancel the accreditation of both the Accredited Consultant and the Accredited Consultancy.
- 2.5. The Accredited Consultancy indemnifies the Moreton Bay Regional Council from and against any claim, (including but not limited to claims based in negligence), loss or damage suffered or incurred by the Moreton Bay Regional Council arising from or in connection with the Third Party Assessment Services performed by the Accredited Consultancy or by an Accredited Consultant

employed or contracted by the Accredited Consultancy who undertook the Third Party Assessment Services, (including but not limited to claims by third parties).

- 2.6. The Accredited Consultant must not provide or disclose any Confidential Information to any third party without the prior written consent of the Moreton Bay Regional Council. If the Accredited Consultant becomes aware of an unauthorised disclosure of any Confidential Information, it must immediately inform the Moreton Bay Regional Council of the disclosure. These provisions shall not restrict the Accredited Consultant from:
 - 2.6.1. Disclosing information to third parties (including its sub-consultants or sub-contractors) which is necessary for the performance of Services provided that any such disclosure is on terms which include a confidentiality clause identifiable to the Accredited Consultant's obligations under this Clause; and/or
 - 2.6.2. Disclosing the information to its insurance broker legal representatives and financial or accounting advisors to the extent required for the day to day running of the Accredited Consultant's business or making or defending a claim either under an insurance policy or in court proceedings.

Clause 2.6 survives termination or expiry of this Deed.

- 2.7. The terms of the Guidelines for the Accredited Consultant/ Consultancy form part of the terms of this Deed. In the event of inconsistency, the terms of this Deed shall prevail over the terms of the Guidelines for the Accredited Consultant/Consultancy to the extent of the inconsistency.

3. Moreton Bay Regional Council's obligations

- 3.1. Subject to the terms of this Deed, the Moreton Bay Regional Council shall:
 - 3.1.1. carry out the mb+ Assessment Process with due care and skill; and
 - 3.1.2. promptly after the execution of this Deed, add the name of the Accredited Consultant to the List of Accredited Consultants (for clarity, the name of the Accredited Consultant may be removed from that list in accordance with this Deed).
- 3.2. The Accredited Consultant acknowledges and agrees that:
 - 3.2.1. it has not relied on any statement, representation, warranty, conduct or undertaking made or given by the Moreton Bay Regional Council or any person on its behalf; and
 - 3.2.2. it has relied on its own skill and judgment in agreeing to enter into this Deed.
- 3.3. The Moreton Bay Regional Council is not liable to pay to the Accredited Consultant any fees, expenses or other costs in connection with the Accreditation Process, the mb+ Assessment Services or for any other work performed by the Accredited Consultant in connection with this Deed.

4. Suspension and/or removal

4.1. The Accredited Consultant agrees that the Moreton Bay Regional Council may, by notice in writing to the Accredited Consultant and/or the Accredited Consultancy, suspend the right of the Accredited Consultant to perform the mb+ Assessment Services if, in the opinion of Moreton Bay Regional Council:

4.1.1. the Accredited Consultant fails to: (a) maintain the relevant level of professional body membership and professional indemnity insurance required by the Guidelines for Accredited Consultant/Consultancy; or (b) provide the Moreton Bay Regional Council with evidence (including certificates of currency and policy schedules) of that insurance within one business day of the Moreton Bay Regional Council requesting such evidence; or

4.1.2. the Accredited Consultant has breached any of its obligations and/or warranties in clause 2; or

4.1.3. the Moreton Bay Regional Council becomes aware by whatever means of any fraud perpetrated, or allegedly perpetrated by the Accredited Consultant, or

4.1.4. the Accredited Consultant ceases to be employed or otherwise engaged by the Accredited Consultancy.

4.2. The Accredited Consultant must cease providing mb+ Assessment Services on and from the date of suspension and for the period of time specified in the notice given by the Moreton Bay Regional Council under clause 4.1 above, or if no date is specified in that notice, immediately upon receipt of that notice by the Accredited Consultant.

4.3. The Moreton Bay Regional Council may remove the name of the Accredited Consultant from the List of Accredited Consultants during the period of any suspension under this Clause 4.

5. Expiry and Termination

5.1. This Deed commences on the date that it is signed by both parties and continues for a period of five years, unless terminated earlier (including but not limited to termination under clauses 5.2 and 5.3 below).

5.2. The Moreton Bay Regional Council may by notice in writing to the Accredited Consultant and/or the Accredited Consultancy, immediately terminate this Deed if:

5.2.1. the Moreton Bay Regional Council determines that it is not reasonable for the Accredited Consultant to remain accredited because of the nature or extent of conduct which led to the Moreton Bay Regional Council issuing a notice to the Accredited Consultant under clause 4.1 above; or

5.2.2. the Accredited Consultant breaches any of the terms of this Deed, including any failure to comply with the Accredited Consultant's obligations or warranties in clause 2; or

5.2.3. the Accredited Consultant becomes the subject of any insolvency, bankruptcy or winding-up proceedings of any kind (as determined by the Moreton Bay Regional Council).

5.3. The Moreton Bay Regional Council may terminate this Deed for convenience (for any reason or for no reason) by giving no less than 60 days notice to the Accredited Consultant.

5.4. In exercising any of its rights under clause 5, the Moreton Bay Regional Council has no obligation to consider the impact of the termination on the Accredited Consultant and has no liability to the Accredited Consultant for any loss or damage suffered or incurred by the Accredited Consultant as a result of the termination.

6. Effect of Suspension, Termination and Completion of Term

Immediately upon suspension or termination of this Deed under clauses 4 and/or 5 all rights granted by the Moreton Bay Regional Council to the Accredited Consultant end and:

6.1. the Accredited Consultant must immediately cease using the Moreton Bay Regional Council Accredited Consultant Graphic specified by the Moreton Bay Regional Council (Trade Mark) and must (at the election of the Moreton Bay Regional Council) return or destroy any documentation, signage or other materials that feature the Trade Mark or any other Intellectual Property Rights of all licensed by the Moreton Bay Regional Council;

6.2. the Moreton Bay Regional Council shall remove the Accredited Consultant from the List of Accredited Consultants;

6.3. the Accredited Consultant must cease providing any mb+ Assessment Services;

6.4. the Accredited Consultant must cease to represent or refer to itself as an "Accredited Consultant" of the Moreton Bay Regional Council; and

6.5. the Accredited Consultant must immediately return any documents and confidential information of the Moreton Bay Regional Council and must provide written undertakings that it has done so, upon request by the Moreton Bay Regional Council. Nothing in this Deed prevents the Accredited Consultant from retaining one copy of any document solely for the purpose of its own records and upon the continuing duty of confidence set out in this Deed.

7. Waiver and Forbearance

The waiver or forbearance of the Moreton Bay Regional Council in the face of any breach of this Deed by the Accredited Consultant shall not be construed as a waiver or relinquishment of the Moreton Bay Regional Council's rights to future performance of such provision and the Accredited Consultant's obligations in respect of such future performance shall continue in full force and effect.

8. Limitation of Liability

Notwithstanding anything to the contrary in this Deed, Moreton Bay Regional Council excludes all liability to the Accredited Consultant in connection with any loss or damage (including consequential loss, indirect loss, loss of profit, loss of revenue, loss of opportunity, loss of bargain and damage to reputation) suffered or incurred by the Accredited Consultant in connection with this Deed or any act or omission of the Moreton Bay Regional Council, including the negligence of the Moreton Bay Regional Council (but not including death or personal injury directly caused by the gross negligence of the Moreton Bay Regional Council).

9. Entire Agreement

These terms and conditions of this Deed contain the entire understanding between the parties and any variation of the provisions of this Deed shall have no effect unless in writing and signed by the parties.

10. Notices

Any notice to be served under this Deed shall be in writing and served upon the recipient at its address set out at page 1 of the Accreditation Application Form by hand, regular post or facsimile and shall be deemed served 48 hours after posting if sent by post, on delivery if delivered by hand and on completion of transmission if sent by facsimile.

11. Jurisdiction and Law

This Deed is governed by and is to be construed in accordance with the laws applicable in Queensland. Each party irrevocably and unconditionally submits to the nonexclusive jurisdiction of the courts exercising jurisdiction in Queensland and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

12. Consent and approval

If the Moreton Bay Regional Council has a right to approve, consent, decide, determine, form an opinion or make any other decision of any kind under this Deed, it may exercise that right at its absolute discretion and, in exercising the right, it may do so conditionally or unconditionally, is not obliged to give reasons or consult with the Accredited Consultant in exercising that right and has no obligation to exercise the right within any particular period of time or a within reasonable period of time.

13. Amendment

This Deed may only be varied or replaced by a document executed by the parties.

14. Contra proferentem

No rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it.

15. Counterparts

This Deed may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

Executed as a Deed

In witness hereof the parties hereto set their hands and seals the day and year first hereinbefore written.

Signed, sealed and delivered by

Signature of Council representative:

Name of Council representative:

Date:

Signed, sealed and delivered by

Signature of Accredited Consultant:

Name of Accredited Consultant:

Date:



**mb+ Plan Endorsement accreditation-
A4 - Accreditation Deed for
Consultancy**



ABN: 92 967 232 136

PO Box 159 Caboolture QLD 4510 | T 07 3205 0555 | E mbrcc@moretonbay.qld.gov.au | W www.moretonbay.qld.gov.au

Made as a Deed

This Deed is made on the _____
day of _____ 20 _____
between

Moreton Bay Regional Council
2 Hasking Street, Caboolture
P.O Box 159
Caboolture QLD 4510
(‘Moreton Bay Regional Council’)

and

Consultancy name:

Consultancy address:

with the ACN of Accredited Consultancy:

(“Accredited Consultancy”)
in relation to the Accredited Consultancy performing mb+ Assessment services for Moreton Bay Regional Council.

Recitals

- A. The Accredited Consultancy has successfully completed the Accreditation Process and now wishes to provide mb+ Assessment Services to the Moreton Bay Regional Council, including admission to the List of Accredited Consultants.
- B. The Moreton Bay Regional Council requires the Accredited Consultancy to undertake, to preserve and maintain the confidentiality of certain information relevant to those services.
- C. The process and services relevant to the mb+ Assessment Services are set out in the Guidelines for Accredited Consultant/Consultancy.
- D. The Development Services manager is authorised to sign this Deed on behalf of Moreton Bay Regional Council.

Terms and conditions

1. Definitions and interpretation

The following terms shall have the following meaning for the purpose of this Deed.

‘**Accredited Consultant**’ is the individual considered ‘accredited’ for the purposes of mb+ Assessment. The individual consultant must demonstrate the required level of expertise and experience to obtain accreditation.

‘**Accredited Consultancy**’ means the body corporate named in the Accreditation Application Form completed by the Accredited Consultant for the Accreditation Process.

‘**Accreditation Process**’ means the process and assessment procedures for becoming an Accredited Consultant, as specified by the Moreton Bay Regional Council and which has been completed by the Accredited Consultancy.

‘**Authorised User**’ has the meaning given to that term by the Trade Marks Act 1995 (Cth)

‘**Confidential Information**’ means the confidential information of the Moreton Bay Regional Council and includes any documents or information provided by the Moreton Bay Regional Council: (a) that are marked as confidential; (b) that are provided by the Moreton Bay Regional Council under circumstances or communications that are confidential; or (c) which the Accredited Consultant ought to know are confidential but (in respect of any of the information in (a), (b), and (c) of this definition, does not include any information that is or becomes part of the public domain, other than as a result of a breach of an obligation of confidence or any information that is required to be disclosed by law.

‘**Deed**’ means this Accredited Deed

‘**Guidelines for Accredited Consultant/Consultancy**’ means the guidelines titled Guidelines for Accredited Consultant/Consultancy which are attached to this Deed, as amended by the Moreton Bay Regional Council from time to time.

‘**Intellectual Property Rights**’ means all intellectual and industrial property rights and interests in Australia and throughout the world, whether registered or unregistered and whether created before on or after the date of this Deed, including trademarks, designs, patents, inventions, circuit layouts, copyright and analogous rights, confidential information, know how trade secrets and all other Intellectual Property Rights.

‘**List of Accredited Consultants**’ means the list of Accredited Consultants and consultancies as from time to time may be published by the Moreton Bay Regional Council and in the manner of publication or disclosure determined by Moreton Bay Regional Council.

‘**Plan Sealing**’ means the approval or sealing of a Survey Plan or Plan of Subdivision.

‘**mb+ Assessment Service**’ means the Third Party Accredited Consultant Plan Sealing services, which the Moreton Bay Regional Council specifies from time to time including, but not limited to, the preparation of mb+ Accredited Consultant Plan Endorsement applications.

‘**Term**’ means the term of this Deed, as determined by clause 5.1.

2. Accredited Consultancy’s obligations

- 2.1. The Accredited Consultancy hereby represents and warrants to the Moreton Bay Regional Council, and it is a condition of this Deed that the Accredited Consultancy:

- 2.1.1. provided information to the Moreton Bay Regional Council during the Accreditation Process that was true, accurate and correct and will continue to provide information during its performance of the mb+ Assessment Services that is true, accurate and correct;
 - 2.1.2. has disclosed to the Moreton Bay Regional Council the locations of all the Accredited Consultancy's business premises;
 - 2.1.3. will immediately inform the Moreton Bay Regional Council in writing of any changes to the Accredited Consultancy's business address/es; business, company or trading name/s and any other information provided or disclosed by the Accredited Consultancy during the Accreditation Process;
 - 2.1.4. will keep itself informed of any changes made by the Moreton Bay Regional Council to the Guidelines for Accredited Consultant/ Consultancy.
 - 2.1.5. will carry out the mb+ Assessment Services safely, securely and in a professional manner
 - 2.1.6. will carry out the mb+ Assessment Services in accordance with the standards specified by the Moreton Bay Regional Council from time to time including in the Guidelines for Accredited Consultant/Consultancy and as required by law; and
 - 2.1.7. will comply with the lawful advice and directions of the Moreton Bay Regional Council made in connection with the mb+ Assessment Services.
- 2.2. Other than as expressly set out in this Deed, this Deed does not licence, assign or transfer to the Accredited Consultant any Intellectual Property Rights of the Moreton Bay Regional Council or any goodwill in the same.
 - 2.3. The Accredited Consultancy acknowledges that benefits, rights and privileges attached to the accreditation of the Accredited Consultancy are limited to the type of use the Accredited Consultancy is qualified and demonstrates competency in, as determined by the Moreton Bay Regional Council. The Accredited Consultancy must not perform any mb+ Assessment Plan Sealing Services that, in the opinion of Moreton Bay Regional Council, fall outside the limitations of the accreditation of the Accredited Consultancy (i.e. an individual accredited for mb+ Plan Sealing Assessment cannot endorse or assess applications for Operational Works or any other type of work or development unless the appropriate accreditation is held by the individual.
 - 2.4. The Accredited Consultancy acknowledges that any non-compliance with or breach by the Accredited Consultancy of the Guidelines for the Accredited Consultant/ Consultancy or the terms of this Deed in the conduct or operation of mb+ Assessment Services by the Accredited Consultancy for or on behalf of Moreton Bay Regional Council will provide the Moreton Bay Regional Council with the option to elect to immediately cancel the accreditation of both the Accredited Consultancy and any Accredited Consultant employed or contracted by the Accredited Consultancy who undertook the mb+ Assessment Services.
 - 2.5. Prior to performing any Compliance Assessment Services, the Accredited Consultancy must:
 - 2.5.1. take out and maintain from a reputable insurance company, professional indemnity insurance that applies to the performance of mb+ Assessment Services by the Accredited Consultancy (whether performed by employees or contractors of the Accredited Consultancy) for an amount of cover of no less than \$5 million per claim and
 - 2.5.2. provide the Moreton Bay Regional Council with a copy of the certificate of currency and policy schedule of each of the insurance policies referred to in Clauses 2.51.
 - 2.6. Without limiting the insurance obligations of the Accredited Consultancy under clause 4.1.1, the Accredited Consultancy must:
 - 2.6.1. maintain the insurance policies referred to in clauses 2.5.1 during the Term and for a period of no less than seven years from the later to occur of:
 - 2.6.1.1. the termination or expiry of this Deed; or
 - 2.6.1.2. the Accredited Consultancy providing the Moreton Bay Regional Council with the final deliverable that the Accredited Consultancy is required by the Moreton Bay Regional Council to provide in connection with this Deed
 - 2.6.2. upon request, provide the Moreton Bay Regional Council with up-to-date copies of the certificate of currency and policy schedule of the insurance policies referred to in clause 2.6.1
- Clause 2.6 survives termination or expiry of this Deed.**
- 2.7. The Accredited Consultancy indemnifies the Moreton Bay Regional Council from and against any claim, (including but not limited to claims based in negligence), loss or damage suffered or incurred by the Moreton Bay Regional Council arising from or in connection with the Third Party Assessment Services performed by the Accredited Consultancy or by an Accredited Consultant employed or contracted by the Accredited Consultancy who undertook the Third Party Assessment Services, (including but not limited to claims by third parties).
 - 2.8. The Accredited Consultancy must not provide or disclose any Confidential Information to any third party without the prior written consent of the Moreton Bay Regional Council. If the Accredited Consultancy becomes aware of an unauthorised disclosure of any Confidential Information, it must immediately inform the Moreton Bay Regional Council of the disclosure. These provisions shall not restrict the Accredited Consultancy from:
 - 2.8.1. Disclosing information to third parties (including its sub-consultants or sub-contractors) which is necessary for the performance of Services provided that any such disclosure is on terms which include a confidentiality clause identifiable to the Accredited Consultancy's obligations under this Clause
 - 2.8.2. Disclosing the information to its insurance broker legal representatives and financial or accounting advisors to the extent required for the day to day running of the Accredited Consultancy's business or making or defending a claim either under an insurance policy or in court proceedings

Clause 2.8 survives the termination or expiry of this Deed.

2.9. The terms of the Guidelines for the Accredited Consultant/ Consultancy form part of the terms of this Deed. In the event of inconsistency, the terms of this Deed shall prevail over the terms of the Guidelines for the Accredited Consultant/Consultancy to the extent of the inconsistency.

3. Moreton Bay Regional Council's obligations

3.1. Subject to the terms of this Deed, the Moreton Bay Regional Council shall:

3.1.1. carry out the mb+ Accreditation Process with due care and skill;

3.1.2. promptly after the execution of this Deed, add the name of the Accredited Consultancy to the List of Accredited Consultants (for clarity, the name of the Accredited Consultancy may be removed from that list in accordance with this Deed);

3.1.3. during the Term, grant a limited, revocable, non-exclusive licence (without any right to sub-license) to the Accredited Consultancy to use the Moreton Bay Regional Council Accredited Consultant Graphic specified by Moreton Bay Regional Council (Trade Mark) to perform the mb+ Assessment Services, provided that

3.1.3.1. without limiting any other restrictions on use of the Trade Mark by the Accredited Consultancy under this Deed, the Accredited Consultancy must not exercise any rights that it may have as an Authorised User under section 26(1) of the Trade Marks Act 1995 (Cth) without the prior written consent of the Moreton Bay Regional Council and

3.1.3.2. the Accredited Consultancy may only use the Trade Mark in accordance with the directions given from time to time by the Moreton Bay Regional Council.

3.2. The Accredited Consultancy acknowledges and agrees that:

3.2.1. it has not relied on any statement, representation, warranty, conduct or undertaking made or given by the Moreton Bay Regional Council or any person on its behalf; and

3.2.2. it has relied on its own skill and judgment in agreeing to enter into this Deed.

3.3. The Moreton Bay Regional Council is not liable to pay to the Accredited Consultancy any fees, expenses or other costs in connection with the Accreditation Process, the mb+ Assessment Services or for any other work performed by the Accredited Consultancy in connection with this Deed.

4. Suspension and/or removal

4.1. The Accredited Consultancy agrees that the Moreton Bay Regional Council may, by notice in writing to the Accredited Consultancy, suspend the right of the Accredited Consultancy to perform the mb+ Assessment Services if, in the opinion of Moreton Bay Regional Council:

4.1.1. the Accredited Consultancy fails to: (a) maintain the relevant level of professional body membership and professional indemnity insurance required by the Guidelines for Accredited Consultant/Consultancy; or (b) provide the Moreton Bay Regional Council with evidence (including certificates of currency and policy schedules) of that insurance within one business day of the Moreton Bay Regional Council requesting such evidence;

4.1.2. the Accredited Consultant breaches any of its obligations and/or warranties in clause 2;

4.1.3. The Moreton Bay Regional Council becomes aware by whatever means of any fraud perpetrated, or allegedly perpetrated by the Accredited Consultancy, its directors, employees, agents, contractors or any of its senior management.

4.2. The Accredited Consultancy must cease providing mb+ Assessment Services on and from the date of suspension and for the period of time specified in the notice given by the Moreton Bay Regional Council under clause 4.1 above, or if no date is specified in that notice, immediately upon receipt of that notice by the Accredited Consultancy.

4.3. The Moreton Bay Regional Council may remove the name of the Accredited Consultancy from the List of Accredited Consultants during the period of any suspension under this clause 4.

5. Expiry and Termination

5.1. This Deed commences on the date that it is signed by both parties and continues for a period of five years, unless terminated earlier (including but not limited to termination under clauses 5.2 and 5.3 below).

5.2. The Moreton Bay Regional Council may by notice in writing to the Accredited Consultancy, immediately terminate this Deed if:

5.2.1. The Moreton Bay Regional Council determines that it is not reasonable for the Accredited Consultancy to remain accredited because of the nature or extent of conduct which led to the Moreton Bay Regional Council issuing a notice to the Accredited Consultancy under clause 4.1 above;

5.2.2. the Accredited Consultancy breaches any of the terms of this Deed, including any failure to comply with the Accredited Consultancy's obligations or warranties in Clause 2; or

5.2.3. the Accredited Consultancy becomes the subject of any insolvency, bankruptcy or winding-up proceedings of any kind (as determined by the Moreton Bay Regional Council).

5.3. The Moreton Bay Regional Council may terminate this Deed for convenience (for any reason or for no reason) by giving no less than 60 days' notice to the Accredited Consultancy's.

5.4. In exercising any of its rights under clause 5, the Moreton Bay Regional Council has no obligation to consider the impact of the termination on the Accredited Consultancy and has no liability to the Accredited Consultancy for any loss or damage suffered or incurred by the Accredited Consultancy as a result of the termination.

6. Effect of Suspension, Termination and Completion of Term

Immediately upon suspension or termination of this Deed under clauses 4 and/or 5 all rights granted by the Moreton Bay Regional Council to the Accredited Consultancy end and:

6.1. the Accredited Consultancy must immediately cease using the Trade Mark and must (at the election of the Moreton Bay Regional Council) return or destroy any documentation, signage or other materials that feature

the Trade Mark or any other Intellectual Property Rights at all licensed by the Moreton Bay Regional Council;

- 6.2. The Moreton Bay Regional Council shall remove the Accredited Consultancy from the List of Accredited Consultants;
- 6.3. the Accredited Consultancy must cease providing any mb+ Assessment Services;
- 6.4. the Accredited Consultancy must cease to represent or refer to itself as an "Accredited Consultancy" of the Moreton Bay Regional Council; and
- 6.5. the Accredited Consultancy must immediately return any documents and confidential information of the Moreton Bay Regional Council and must provide written undertakings that it has done so, upon request by the Moreton Bay Regional Council. Nothing in this Deed prevents the Accredited Consultant from retaining one copy of any document solely for the purpose of its own records and upon the continuing duty of confidence set out in this Deed.

7. Waiver and Forbearance

The waiver or forbearance of the Moreton Bay Regional Council in the face of any breach of this Deed by the Accredited Consultancy shall not be construed as a waiver or relinquishment of the Moreton Bay Regional Council's rights to future performance of such provision and the Accredited Consultancy's obligations in respect of such future performance shall continue in full force and effect.

8. Limitation of Liability

Notwithstanding anything to the contrary in this Deed, the Moreton Bay Regional Council excludes all liability to the Accredited Consultancy in connection with any loss or damage (including consequential loss, indirect loss, loss of profit, loss of revenue, loss of opportunity, loss of bargain and damage to reputation) suffered or incurred by the Accredited Consultancy in connection with this Deed or any act or omission of the Moreton Bay Regional Council, including the negligence of the Moreton Bay Regional Council (but not including death or personal injury directly caused by the gross negligence of Moreton Bay Regional Council).

9. Entire Agreement

These terms and conditions of this Deed contain the entire understanding between the parties and any variation of the provisions of this Deed shall have no effect unless in writing and signed by the parties.

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If the Moreton Bay Regional Council has a right to approve, consent, decide, determine, form an opinion or make any other decision of any kind under this Deed, it may exercise that right at its absolute discretion and, in exercising the right, it may do so conditionally or unconditionally, is not obliged to give reasons or consult with the Accredited Consultancy in exercising that right and has no obligation to exercise the right within any particular period of time or a within reasonable period of time.

13. Amendment

This Deed may only be varied or replaced by a document executed by the parties.

14. Contra proferentem

No rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it.

15. Counterparts

This Deed may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

Executed as Deed

In witness here of the parties here to set their hands and seals the day and year first herein before written.

Signed, sealed and delivered by

Signature of Council representative:

Name of Council representative:

Date:

Signed, sealed and delivered by

Company name:

ACN of Accredited Consultancy:

Signature of Director of the Accredited Consultancy:

Name of Director of the Accredited Consultancy:

Date: