

Swimming Pool Certificate of Compliance Application

Date:

INTRODUCTION

This is an application for a Certificate of Compliance, which confirms that the swimming pool complies with the requirements of Part 2 of the *Swimming Pools Act 1992*.

PROPERTY DETAILS

Lot: Section: DP: Owner:

Property Address:

Are there any animals on the property that may be a risk to the inspecting Council Officer? : Yes No

If yes, please specify the type of animal:

APPLICANT DETAILS

The application can only be made by the owner of the property or by an agent/solicitor who has owner's authority to act on their behalf.

Name/Company: Contact Person:

Postal Address:

Telephone: Mobile: Fax:

Email:

OWNERS AUTHORISATION

I/We give permission for the lodgement of this application and for Council Officers to enter the property for the purpose of inspecting the swimming pool, child-restraint safety barrier and taking photographs of the pool area for the purpose of determining this application.

Owner/s Signature: Date:

Owner/s Signature: Date:

If more than one owner, every owner must sign. If the owner is a company, the form must be signed by an authorised director and the common seal must be stamped on this application. If the property has been recently purchased, written confirmation from the purchaser's Solicitor must be provided. If contracts have been exchanged for the purchase of land, the current owner is to sign the application.

The applicant is entitled to appeal to the Land & Environment Court against Council's refusal of the application. Council's failure to determine the application within six weeks after it is made is taken, for the purpose of any such appeal, to be refusal.

OFFICE USE ONLY

Initial Inspection Fee - \$150

Receipt Type 120

Subsequent Inspection Fee - \$100

Date of Receipt: Receipt No: Accepted By:

Agreement for Swimming Pool Inspection

AGREEMENT BETWEEN

Gunnedah Shire Council (the 'Council')

and

..... (the 'Owner')

INTRODUCTION

The Council is authorised to carry out inspections of swimming pools and to issue certificates of compliance under the *Swimming Pool Act 1992* (SP Act).

PARTIES TO THE AGREEMENT

Gunnedah Shire Council (the 'Council')

63 Elgin Street, Gunnedah NSW, 2380

Phone: 02 6740 2100 Email: council@infogunnedah.com.au

The 'Owner'

Owner Name:

Address of Swimming Pool or Spa Pool:

Suburb: State: Postcode:

Owner Address:

Suburb: State: Postcode:

Telephone: Mobile:

Owner Email:

FEES

The fees must be paid to Council before the Council carries out the work described under 'Description of Services'

1. First inspection, including certificates and/or notices, as appropriate: \$150.00
2. For each additional inspection, including certificates and/or notices as appropriate: \$100.00

DESCRIPTION OF SERVICES

The Council will perform all work necessary to comply with relevant statutory requirements, including:

- Inspecting the swimming pool.
- Assessing whether the swimming pool complies with the requirements for the issue of a certificate of compliance under s.22D of the SP Act.
- Issuing a certificate of compliance to the Owner if the swimming pool complies.

- Issuing the following if the swimming pool is non-compliant:
 - Written Notice under section 22E of the SP Act; and
 - A certificate of non-compliance within seven days of the date of inspection.
- If necessary, re-inspecting the swimming pool, and issuing certificate and/or written notices, as appropriate.
- Updating the property record on the NSW Swimming Pool Register, as required.

SIGNATURES

Signed/executed by or on behalf of the Council

Name:

Signature: Date:

Signed/executed by or on behalf of the Owner

Name(s):

Signature(s):

Date:

Information about registered certifiers – swimming pool inspectors

Important: this is a summary document only.

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

Under section 31(2) of the *Building and Development Certifiers Act 2018* and clause 31 of the *Building and Development Certifiers Regulation 2020*, a contract to carry out certification work must be accompanied by an applicable document made available on the website of the Department of Customer Service (which includes NSW Fair Trading)¹. This is the applicable document for certification work involving a certifier registered in the class of **swimming pool inspector**. It does not apply to swimming pool inspections by a local council².

This document summarises the statutory obligations of the registered certifier who will assess your swimming pool or spa pool barrier and your obligations as the pool owner. It also sets out the types of information that can be found on Fair Trading's online register of registrations and approvals.

Obligations of registered certifiers

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

Who does a registered certifier work for?

A registered certifier is a public official and independent regulator, registered by the Commissioner for Fair Trading.

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

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

¹ Visit www.fairtrading.nsw.gov.au and search 'certification contracts'.

² Council officers who inspect pools do not have to be registered as certifiers by Fair Trading.

Obligations of the pool owner

As a pool owner, you have the following obligations:

- Visit the NSW Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au to register your pool.
- Appoint, and enter into a contract with, your chosen certifier.
- Pay the certifier's fees before you receive a certificate. The certifier may refuse to issue a certificate of compliance until the fee is paid.
- Ensure your pool barrier continues to comply at all times. If needed, ask your council to see a copy of the Australian Standard that applies to your pool.

What does a registered certifier – swimming pool inspector do?

A registered swimming pool inspector is authorised to carry out all certification work under the *Swimming Pools Act 1992*, but not if the swimming pool achieves compliance with the performance requirements of the Building Code of Australia by means of a performance solution. They cannot issue certificates under the *Environmental Planning and Assessment Act 1979* for newly-constructed pools.

Registered building surveyors (a different type of certifier) also certify pool barriers. Only a building surveyor may certify a pool that has a performance solution under the Building Code of Australia.

A swimming pool inspector may issue a certificate of compliance if the pool barrier complies with requirements under the *Swimming Pools Act*. A certificate of compliance is valid for three years and may be required in order to sell or lease the property.

If the swimming pool is non-compliant, the certifier may issue a certificate of non-compliance and a notice of non-compliance setting out the defects.

Notes about swimming pool certificates of compliance

- A certificate of compliance is not an occupation certificate and does not certify that the pool meets all conditions of its original development consent
- A certificate of compliance becomes invalid if the council issues a direction requiring compliance with the *Swimming Pools Act*.

Non-compliant pool barrier

If a swimming pool is non-compliant, you will need to address the defects set out in the certifier's notice, then contact the certifier (or another certifier or the council) for a reinspection.

If you do not obtain a certificate of compliance within six weeks of the first inspection, the certifier must send the notice of non-compliance to the council, which may take enforcement action.

If the certifier deems the pool to be a significant risk to public safety they must notify the council immediately and the six-week period will not apply.

Minor repairs to pool barriers

Some certifiers can do minor repairs to a non-compliant pool barrier that they have inspected, but only if:

- they are licensed or authorised under the *Home Building Act 1989* to construct a swimming pool or structural landscaping, and
- the repairs cost no more than \$1,000 including materials and labour, and
- the repairs are for the purpose of issuing a certificate of compliance.

You can check if a certifier is authorised to do minor repairs by checking their *Home Building Act* licence or certificate number at www.service.nsw.gov.au (search 'builder licence').

Finding more information on certifiers

Details of the class of registration each certifier holds, their period of registration, professional indemnity insurance and disciplinary history can be found at www.fairtrading.nsw.gov.au:

- [Details of registered certifiers](#) (or search 'appointing a certifier' from the homepage)
- [Disciplinary actions against certifiers](#) (or search 'certifier disciplinary register' from the homepage).

Questions?

Visit www.swimmingpoolregister.nsw.gov.au and follow the 'information' or 'inspections' tabs for more information and swimming pool safety and certification.

You can also visit www.fairtrading.nsw.gov.au and search '[concerns with development](#)' for information about how to resolve concerns about a certifier.

Note, although Fair Trading regulates certifiers, it does not mediate in contract disputes and does not regulate councils carrying out their functions under the *Swimming Pools Act*. Visit the Fair Trading website for more information.