

Contract for Undertaking of Certification Work

This contract meets the requirements of Section 31 of the Building and Development Certifiers Act 2018 and Part 5 of the Building and Development Certifiers Regulation 2020.

This is a contract between the applicant (being the person having the benefit of the Development Certificate or for whom certification work is to be carried out) and Council, where Council will carry out certification work for the applicant and/or may be appointed as the Principal Certifier Authority in relation to the subject development.

Accredited Certifier

Name of Council (the Council)	<input type="text" value="Hawkesbury City Council"/>		
Business Address	<input type="text" value="366 George Street, Windsor NSW 2756"/>		
Postal Address	<input type="text" value="PO Box 146, Windsor NSW 2756"/>		
Email	<input type="text" value="council@hawkesbury.nsw.gov.au"/>		
Telephone	<input type="text" value="02 4560 4444"/>	Facsimile	<input type="text" value="02 4587 7740"/>

The details of the officers employed by Council as accredited certifiers, any of whom may carry out certification work and inspections under this contract, are as follows:-

Greg Miles A1 Registered Certifier BDC1278
 Michael Russo A1 Registered Certifier BDC1788
 Emma Strickland A1 Registered Certifier BDC 1582
 Ashleigh Doughty A3 Registered Certifier BDC 2887
 Donna Gibson A3 Registered Certifier BDC 2390
 Ziad Elkass E1 Registered Certifier BDC 3463

Details of Property

House/unit no.	<input type="text"/>	Lot	<input type="text"/>	Section	<input type="text"/>	DP/SP	<input type="text"/>
Street	<input type="text"/>						
Suburb	<input type="text"/>						

Particulars of approved plans, specifications and related documents

Description of the development	<input type="text"/>
	<input type="text"/>
Description of the work to be certified (e.g construction of a new dwelling)	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
	<input type="text"/>

Development Consent/ Complying Development Certificate Number	<input type="text"/>
Date of Approval	<input type="text"/>
Construction Certificate No. <input type="text"/>	Date of Approval <input type="text"/>



Particulars of Certification Work

Compliance Certificate No

Date of Approval

Insurance

Accredited certifiers employed by Council exercising the certifying functions on Council's behalf are not required to be covered by insurance for the purposes of Division 2 of Part 6 of the Building Professionals Act 2005.

Particulars of the Development

The following certification works are requested to be carried out for the above development: (Please Select)

1. The determination of a Complying Development Certificate Application ☐
2. The determination of a Construction Certificate application ☐
3. The issue of a Compliance Certificate ☐
4. The appointment of Council as Principal Certifier for the development and the carrying out of inspections during construction ☐
5. The determination of an Occupation Certificate application ☐
6. The determination of an application for a Swimming Pool Compliance Certificate ☐

Council will undertake the certification work in a professional manner and in accordance with the requirements of the Environmental Planning & Act 1979 and the Environmental Planning & Assessment Regulation 2000.

Fees and charges

The fees for certification work are based on Council's annual fees and charges, which are published on Council's website (www.hawkesbury.nsw.gov.au). To obtain a quote as to fees applicable for completion of the certification work under this Contract, please contact Council's Customer Service team on 02 4560 4444.

Contingencies

The fees above provide for Council to carry out 1 (one) inspection for each critical stage or other inspections of the building.

Additional fees may be charged in the following circumstances;

- (i) Additional critical stage inspections or other inspections due to the staging of building works or variations in the construction sequence.
- (ii) Reinspection of works as a result of the relevant stage of construction not being ready, incomplete or unsatisfactory.
- (iii) Additional on-site meetings.

These and any other fees for contingencies are also based on Council's Annual Fees & Charges.

If Council carries out work as result of unforeseen contingencies, Council will:

- (i) Calculate the fee based on its annual fees and charges; and
- (ii) Give you an invoice within 21 days after the completion of that work.

You must pay any fees and charges for unforeseen contingencies within the invoice terms.

Payment of Fees

Before Council can commence any of the certification work requested above, all required fees and charges (with exception of fees arising due to unforeseen contingencies) must be paid.

Unpaid fees

In circumstances where Council is appointed as the certifier and the fees are not paid in accordance with this contract, you acknowledge and accept liability for all or any unpaid fees and any associated debt recovery costs plus interest incurred from the time of appointment. You acknowledge and accept that Council, as the Principal certifier, may suspend services where fees have not been paid, or remain outstanding.

Statutory obligations and accredited certifiers

This contract must be accompanied by any document containing information about the statutory obligations of registered certifiers that is published by Fair Trading for the purpose of clause 31 of the Building and Development Certifiers Regulation 2020 and available on its website.

Applicants details (The person/s for whom certification work is to be carried out)

Title Mr ☐ Mrs ☐ Ms ☐ Miss ☐ Other ☐

Name

Company (if applicable)

Address

Contact Details	Home <input type="text"/>	Mobile <input type="text"/>
	Work <input type="text"/>	Fax <input type="text"/>

Email

Applicants Declaration:

I/we acknowledge that:

All fees are to be paid upfront ☐

Any fees arising due to unforeseen contingencies are to be paid ☐

I/we have freely chosen to appoint Council to carry out this certification work ☐

I/we have read this contract ☐

I/we read the document accompanying this contract ☐

I/we understand our role and responsibility and accept the terms of this contract ☐

I/we understand the role and responsibility of Council Officers as registered Certifiers ☐

Applicants Signature Date

Hawkesbury City Council Use Only - Contract executed by an authorised officer.

Date of Contract

Officers name

Officers position

Signature Date

Note:

An executed copy of the contract will be forwarded to you for your records.

Your application will be assessed and should further information be required an officer will contact you.

Privacy Notice

Council is bound by the provisions of the Privacy and Personal Information Protection Act 1998, in the collection, storage and utilisation of personal information provided in this form. Accordingly, the personal information will only be utilised for the purposes for which it has been obtained and may be available for public access and/or disclosure under various NSW Government legislation.

Information about registered certifiers – building surveyors and building 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 classes of **building surveyor** or **building inspector**, working in either the private sector or for a local council.

This document summarises the statutory obligations of the registered certifier who will assess your development and your obligations as the applicant for the development. 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 applicant, developer, or builder. 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'.

Obligations of the applicant

An applicant is the person seeking a certificate, or engaging a certifier for other certification work, under the *Environmental Planning and Assessment Act 1979*.

As an applicant, you have the following obligations:

- Appoint, and enter into a contract with, your chosen certifier.
- Pay the certifier's fees before any certification work² is carried out.
- Communicate with your builder to ensure the certifier is notified when work reaches each stage. If a mandatory inspection is missed, the certifier may have to refuse to issue an occupation certificate.
- Follow any written direction issued by the certifier and provide any requested additional information to assess an application.
- Meet the conditions of any development consent and ensure the development is carried out in accordance with the approved plans.

What does a registered building surveyor do?

Registered **building surveyors** issue certificates under the *Environmental Planning and Assessment Act 1979* (construction certificates, complying development certificates and occupation certificates), act as the **principal certifier** for development, and inspect building work.

The principal certifier will attend the site to carry out mandatory inspections at certain stages. When construction is complete, the certifier may issue an occupation certificate, which signifies that the work:

- is 'suitable for occupation' – this does not necessarily mean all building work is complete
- is consistent with the approved plans and specifications
- meets all applicable conditions of the approval.

The certifier does not manage or supervise builders or tradespeople or certify that the builder has met all requirements of the applicant's contract with the builder.

What does a registered building inspector do?

Registered **building inspectors** carry out inspections of building work³ with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

² Upfront fee payment is required for any work to determine an application for a development certificate or carry out a function of a principal certifier.

³ Building inspectors may inspect class 1 and 10 buildings under the Building Code of Australia; that is, houses, duplexes and the like; garages and sheds; and structures such as swimming pools, retaining walls and fences.

Principal certifier enforcement powers

If the principal certifier becomes aware of a non-compliance with the development approval, the certifier must, by law, issue a direction to you and/or the builder, requiring the non-compliance to be addressed. If it is not, the certifier must notify the council which may take further action.

The certifier is also required to respond appropriately if a complaint is made about the development.

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?

The Fair Trading website www.fairtrading.nsw.gov.au has information about certifiers, enforcement powers, how to replace a certifier and resolving concerns about a certifier:

- Search '[what certifiers do](#)' for information about a certifier's role and responsibilities.
- Search '[concerns with development](#)' for information about enforcement powers of certifiers, councils and Fair Trading, and how to resolve concerns about a certifier.

The NSW Planning Portal at www.planningportal.nsw.gov.au provides information on the NSW planning and development certification system.

Note, although Fair Trading regulates certifiers, it does not mediate in contract disputes and does not regulate the actions of councils. Visit the Fair Trading website for more information.

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.