



## APPOINTMENT OF SINGLETON COUNCIL AS PRINCIPAL CERTIFIER

*Building and Development Certifiers Act 2018 and Environmental Planning & Assessment Act, 1979*

### Information

Singleton Council is a Certifying Authority who employs Registered Certifiers (Certifiers) who are public officers authorised to carry out the certification work, which is the subject of this Agreement on behalf of the Council.

The Client seeks to engage the Council to perform certification work on the terms set out in this Agreement.

This is a Contract of Agreement between Singleton Council (the Council) and the Client (as nominated below)

### 1. Client Details

the client is the property owner

Name/s (Individual/company name in full)					
For companies, contact name		ABN			
Postal Address					
Suburb		State		Post code	
Contact phone number		Mobile number			
Email address					
Applicant's reference number					

### 2. Certification Work to be Performed

Type of Works	<input type="checkbox"/> Building Works	<input type="checkbox"/> Subdivision Works
<input type="checkbox"/> Appointment to undertake the functions of Principal Certifier for the development upon Consent being granted		
<input type="checkbox"/> Determination of application for a <b>Compliance Certificate</b>		
<input type="checkbox"/> Determination of application for an <b>Occupation Certificate</b>		
<input type="checkbox"/> Determination of application for, and issue of, a <b>Subdivision Certificate</b>		
<input type="checkbox"/> Inspection of swimming pool under Division 5 Part 2 of the Swimming Pools Act 1992 and issuing of Certificate of Compliance.		

### 3. Certifier

Singleton Council Certifiers for all development certificate functions and certification work on this project are

Andrew Henry BPB 1534

More information on certifiers may be obtained are <https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers>

### 4. Property Details

Number	Street	Suburb	Lot	Section	DP/SP

### 5. Description of the building work or subdivision work to be carried out


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## 6. Development/Construction Certificate/Comply Development Consent

Development Consent number	
Date of Development Consent (if already granted)	
Name of applicant for Development Consent	
Construction Certificate number	
Comply Development Consent number	

## 7. Clients Declaration

separate document attached signed by each owner

All owners must sign this form (or attach a separate letter signed by each owner if more space is required).

If the property is owned by a company, consent to lodge this application is required consistent with Corporation law. Any person who signs on behalf of a company must state the authority by which that person acts and must print their name and position. If you do not provide the information (or any part of it), your application may not be accepted.

I/ We agree to:

- Pay all fees as specified in Council's fee quote and any levied in accordance with Council's Fees & Charges Schedule.
- To provide all documents that the Council may reasonably request for it to perform the function of Principal Certifier.
- To provide the Council with reasonable access to the development site.
- To notify Council of the appointment of the principal contractor.
- To notify the principal contractor of any critical stage inspections and other inspections that may from time to time be required to be carried out in respect of the building work.
- Having received and understood the description of services document (page 3 of this document).
- Having freely chosen to engage the Certifier.
- Having read the contract and any document accompanying the Terms and Conditions - Contract and understand the roles and responsibilities of an owner and the Registered Certifier.

NOTE: If the owner is a company, a director and an authorised person (e.g. Secretary) must sign. Signatures must be followed by the person's title. If Company is a sole trader, the person's title is to indicate; 'Sole Director'.

Owner Name	Owner Signature	Date

## Agreement

This agreement is made on (date)	
Signed by owner/client	
Signed on behalf of Singleton Council	

**By Signing this contract, you accept the Terms and Conditions - Contract**

## PRIVACY NOTIFICATION

Personal and private information supplied to Council is managed in compliance with the *Privacy and Personal Information Protection Act 1998*, *Government Information Public Access Act 2009* and Council's Privacy Management Plan. The supply of information on this form is voluntary but it is required to process your application/request. The [Privacy Management Plan](#) may be accessed on Council's website. If you have any further enquiries concerning Privacy matters, contact Council's Privacy Officer on 02 6578 7290.

### Application for an Occupation Certificate (OC)

#### Description of services

The Certifier will, on behalf of the Council, perform all work necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Provide a blank copy of an OC application form to the Client.
2. Conduct an inspection of the development and prepare a record of the inspection.
3. Assess whether the application satisfies the requirements of the EP&A Regulation, including whether any pre-conditions of the Development Consent or CDC which are required to be met before an OC may be issued, have been met and (where building work has been carried out) whether the work is not inconsistent with the Development Consent.
4. Determine the application and prepare a Notice of Determination.
5. If the certificate is granted, prepare and issue the OC.
6. Retain on the Council record all documents as required by relevant legislation.

### Application for a Compliance Certificate

#### Description of services

The Certifier will perform, on behalf of the Council, all work that is necessary to comply with relevant statutory requirements and to facilitate the timely determination of the application, including:

1. Conduct an inspection of any building work or subdivision work, if necessary.
2. Where appropriate, ascertain if a Development Consent or Complying Development Certificate is in force with respect to building work or subdivision work, which is the subject of the application.
3. If the Certificate is granted, prepare and issue a Compliance Certificate.

### Swimming Pools and Certificates of Compliance

#### Description of services

The Certifier will:

1. Check to ensure any swimming pool is registered under Part 3A of the Swimming Pools Act 1992.
2. Inspect the swimming pool and determine compliance with its child resistant barriers against the Act and Regulation and the relevant Standards.
3. Issue Certificates of Compliance under Section 22D of the Swimming Pool Act 1992, or
4. Issue notices, if the child resistant barriers do not satisfy the requirements for the issue of a Certificate of Compliance.

#### Compliance functions

The Certifier, will take such steps as appropriate, to address any of the following matters relating to the development:

- a) non-compliance with the development consent
- b) the carrying out of work without development consent
- c) an unauthorised use of a building
- d) a breach of a law relating to the carrying out of work or the use of the land
- e) a threat to the safety of a person or a person's property
- f) any other matter considered to be in the public interest to address.

The Certifier may:

- g) attend the site or nearby properties to inspect any issue of concern relating to the development
- h) confer with any person in relation to any issues of concern
- i) cause correspondence to be issued to any person
- j) refer any matter of concern to such persons or authorities considered to be relevant to any matter,
- k) issue notices or orders under section Division 9.3 of the EP&A Act

#### Service Provided & Responsibilities of the Certifier

Certifiers are obliged to:

- act within the terms and conditions of their accreditation
- comply with the code of conduct
- avoid conflicts of interest
- hold professional indemnity insurance, unless they are employed by a council and covered by its insurance
- complete continuing professional development each year
- maintain complete, confidential and secure records.

The Certifier has a range of functions, including:

- a) Determine applications for Complying Development within the timeframes set by the EP&A Regulation;
- b) Confirm the builder for a development has the required licence and insurance;
- c) Check that all applicable preconditions for building or subdivision work are met before work starts or a certificate issued;
- d) Carry out inspections during 'critical stages' of building work to determine compliances with legislative requirements and conditions of consent;
- e) Take action to address non-compliant work and, if needed, report it to the appropriate authority.

And will:

- a) Make a written record of the inspections and provide a copy to the relevant owner and/or applicant via electronic transmission (e-mail).
- b) Advise the Client of the details of the work the subject of an unsatisfactory inspection and the need (if any) to carry out a reinspection.
- c) Notify the Client if any additional fees for inspection are required as a result of unforeseen contingency work or reinspection for incomplete or defective works. Fees will be levied and invoiced in accordance with Council's Fees and Charges.
- d) Issue determinations for OC's and Subdivision Certificates.

#### Responsibilities of the Client

The Client agrees to:

- a) Pay all fees for services provided by the Certifier or such fees and charges as required by another Authority, e.g. Fire & Rescue NSW.
- b) Ensure all notifications / arrangements are made for Council to carry out inspections of the building works at various stages indicated in the Development Consent/ Construction Certificate/ Complying Development Certificate and in accordance with the Conditions of this Agreement.
- c) Ensure that building work is ready for inspection by 9.30am on the day of inspection. Note: Should a specific inspection time or site access be required this may be arranged, subject to availability, by speaking with the relevant Council Accredited Certifier between 9.00am and 9.30am on the day of the inspection. Where a reinspection is required as a result of defective or incomplete works the Client shall make payment of the appropriate reinspection fee as prescribed in Council's Fees and Charges at Council's office.
- d) Where an inspection is required, the Client must ensure the relevant stamped approved plans and specifications, and other required details are on-site and/or available to the Certifier. For example, where a timber floor, roof or wall frame inspection is required the relevant information must be provided such as roof truss specifications, tie-down and joint schedules, roof and wall bracing plans and specifications, wall insulation specifications, timber sizes schedules and the like.
- e) Before booking a final inspection and/or Occupation Certificate for a BASIX affected building, the Client must submit to the Certifier a self-certification attesting to compliance with Basix.
- f) Before booking a final inspection and/or Occupation Certificate for commercial buildings the Client must submit to Council all documentation required to be provided/submitted as part of the Development Consent/Construction Certificate or Complying Development Certificate requirements.
- g) Ensure that the erection of the building and/or works are complete and ready for inspection in accordance with the Development Consent/ Construction Certificate or Complying Development Certificate.



## 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)<sup>1</sup>. 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.

<sup>1</sup> Visit [www.fairtrading.nsw.gov.au](http://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 work 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 work<sup>2</sup> with the approval and agreement of the principal certifier. Building inspectors are not authorised to issue certificates or be appointed as the principal certifier.

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<sup>2</sup> 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](http://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](http://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](http://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.

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## 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)<sup>1</sup>. 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 council<sup>2</sup>.

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.

<sup>1</sup> Visit [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) and search 'certification contracts'.

<sup>2</sup> 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](http://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 any certification work is carried out. 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](http://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](http://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](http://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](http://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.

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