INSPECTION REQUEST FORM

☐ Certificate of Compliance

THE APPLICATION

DATE OF APPLICATION:

THE LAND

Lot No.:		Deposited Plan:	
House No.:		Street Name	
Suburb:		Post Code:	
Area (m^2):		Section/Folio:	

THE POOL

Use of Pool:	Residential ☐ Commercial ☐ Industrial ☐
Type of Pool:	Indoor Pool ☐ Spa ☐ Outdoor Pool ☐ Portable ☐
Date of Completion:	
Date of Modification (if any):	
Occupation Certificate issued ?:	Yes ☐ No ☐ Unsure ☐
Additional Comments	

ACCESS

Contact Person:	
Phone:	

THE APPLICANT/OWNERS

	Owner 1 / Applicant	Owner 2
First Name:		
Surname:		
Street:		
Suburb:		
Contact No.:		
E-mail:		

PAYMENT DETAILS WILL BE ON YOUR INVOICE

Amount ($):	$450 (includes GST)

PRIVACY STATEMENT

By completing this form you are enabling Edward Gudaitis/ Certibuild to collect personal information that is required by the *Swimming Pools Act 1992* and the *Environmental Planning and Assessment Act 1979*. Failure to provide this information may lead to rejection or delays in the determination of your application or undertaking any inspections. At any time you have the right to access, view or correct the personal information that you have provided. This information will be stored in Local's records system and will be used only for the purposes for which it has been collected.

OWNERS CONSENT AND ACCEPTANCE OF AGREEMENT

OWNERS CONSENT

I/we the owners of the subject property hereby give consent for the lodgement of this application and associated documentation to Certibuild

I/we also declare that all documentation presented as part of any application for a Certificate of Compliance is entirely accurate

With reference to subject pool, I/we the owners of the subject property hereby advise of our decision to appoint Edward Gudaitis of Certibuild:
to undertake the requested inspection in accordance with the requirements of the *Swimming Pools Act, 1992 (as amended) (the Act).*

I/ we understand that the engagement shall be subject to the Agreement Terms and Conditions outlined in this application and I/ we understand that we are giving permission to access the subject for the purposes of undertaking inspections required by the Act.

SIGNATURES

Owner 1 / Applicant

Signed: _____

Name *(Please Print)*: _____ **Date:** _____

Owner 2

Signed: _____

Name *(Please Print)*: _____ **Date:** _____

INFORMATION REQUIRED TO ACCOMPANY THIS REQUEST

REQUIREMENT	COPIES	PROVIDED	N/A
Completed Application Form	1	☐	☐
Occupation Certificate for Swimming Pool	1	☐	☐
NSW Swimming Pools Register Registration	1	☐	☐
Swimming Pool Completion Date		☐	☐
Swimming Pool Fence Modification Date (if applicable)		☐	☐

AGREEMENT TERMS AND CONDITIONS

EFFECT OF AGREEMENT

1. This agreement supersedes and overrides any other documents or oral representations upon which the parties may seek to rely to generate any legal effect or to imply any contractual obligation.

OBLIGATIONS OF THE REGISTERED CERTIFIER (RC)

2. **Issuing of the Certificate of Compliance:**

2.1 The RC shall issue a Certificate of Compliance:-

- once the RC is satisfied that the pool barrier has been constructed in accordance with the relevant Australian Standard;
- once the RC is satisfied that the pool barrier has been constructed in accordance with the Act, and;
- once the Owner pays the RC any money owed for work associated with the issuing of a Certificate of Compliance.

2.2 The RC shall issue the Certificate of Compliance within three (3) days of the date of inspection, if the pool barrier is compliant.

2.3 The RC will use the NSW Swimming Pools Register to issue any Certificate of Compliance

2.4 During the assessment of the application for a Certificate of Compliance, the RC may request any documentation or statements from the owners or any other party that the RC considers necessary

3. Inspections

3.1 The RC shall carry out or arrange to be carried out an inspection of the subject pool barrier as requested.

3.2 If the pool barrier is non-compliance, the RC shall issue a Certificate of Non-Compliance and notice under Section 22E of the Act within three (3) days of the date of inspection.

3.3 The RC will use the NSW Swimming Pools Register to issue any Certificate of Non-Compliance.

3.4 The RC shall notify the Local Council immediately if they are of the opinion that the swimming pool poses a significant risk to public safety.

3.5 The RC shall provide a copy of the section 22E written notice to the Local Council

- Immediately where the swimming pool poses a significant risk to public safety;
- Within five (5) days of the expiry of the six (6) weeks from the date of inspection if the owner fails to rectify pool barrier non-compliance.

3.6 Any inspections undertaken, and the notification of the result of any inspection that has been undertaken, in relation to the subject development are prepared and provided to the Owner/s solely for the purpose specified, for the Owner/s exclusive use in regard to the property identified only, and on the undertaking/condition that the Owner/s shall not communicate the contents of the notification of result to any third person who might act to his/her detriment on the basis of the notification. The Owner/s agrees to indemnify the registered certifier and Edward Gudaitis and Certibuild against any loss or damage suffered as a result of the Owner/s failure to observe this abovementioned clause. All inspections undertaken are based on a visual inspection and do not comment therefore on aspects, faults or otherwise, which are below ground level, covered up in any way, or which are not apparent at the time of inspection. No indication is given as to the adequate performance of any plumbing, hydraulic, gas or electrical appliance or fitting that may be installed or included in the building or on the site.

4. Insurance

4.1 The RC shall maintain an insurance policy in accordance with the Act and shall provide a copy of that policy to the Owner upon request.

4.2 The extent of any claim or otherwise against the policy held by the RC or against the RC in any way shall be limited to five times (5x) the value of the service fee paid to the RC for the services provided and no more.

OBLIGATIONS OF THE OWNER

5. The Owner shall:-

Ensure that the site is available for the RC to carry out its obligations under this agreement.

Provide accurate details of the date of completion of the swimming pool and pool fence barrier.

- Provide accurate details of the date of any modification to the pool fence barrier from the original construction.
- Provide all relevant drawings, plans, statutory plans and documentation associated with but not limited to any Development Consent, Complying Development Consent and/or any Certificate issued under the *Environmental Planning and Assessment Act 1979* at the request of the RC.
- Comply with any Certificate of Non-Compliance and Section 22E notice that the RC issues.
- Rectify any non-compliances identified by the RC as soon as practicable and contact the RC to arrange a further inspection.
- Provide all information that the Owner reasonably can obtain to enable the RC to fulfil its obligations under this agreement.

Act in good faith, in accordance with the Act and in a cooperative fashion

VARIATIONS TO THIS AGREEMENT

5. If:-

- Additional Certificates of Compliance and/or Certificate of Non-Compliance are required to be issued by a Registered Certifier; or
- An amendment to the Act, the BCA or any other law that requires any aspect of the RC's work to be varied; or
- The Owner does anything that causes a delay to the ability of the RC to carry out its obligations under this agreement; or;
- A Section 23 Order is issued by the Local Council on the subject swimming pool; or
- The RC is notified of a complaint to the NSW Fair Trading or a representative from the Local Council with jurisdiction over the subject site, then:
- the RC may:-
- vary this agreement to the extent that the RC will be able to carry out its obligations under this agreement; and
- increase the agreement price, such increase to be made by way of Notice to the Owner stating the reason/s for the increase and the amount of the increase.

5.1 The variation will permit the RC to claim all costs associated with that delay as reasonably determined by the PCA.

5.2 Notice must be given to the Owner within seven (7) days from the date on which the RC becomes aware that a variation will be necessary.

TERMINATION OF AGREEMENT

6. If:-

- It becomes evident that the Owner has provided incorrect or false information in relation to the date of construction of the swimming pool; or
- It becomes evident that modifications have been made to the original pool barrier and the date of these modifications has not been documented/is unknown; or
- The person/s or Company responsible for making payment for this service fails to pay any money owing to the RC after seven (7) days of that money becoming payable; or
- The Owner or the person/s or Company responsible for making payment for this service breaches the agreement in any respect; or
- The failure of the Owner to complete any rectification works and as a result does not permit the Registered Certifier to issue the Certificate of Compliance within six (6) weeks from the date of inspection; or
- The Owner or Occupier, for any other reason, does not permit the RC to access the subject property to carry out the necessary inspection; or

6.1 The RC may terminate this agreement by sending a written Notice of Termination, stating the breach/s, to the Owner. Termination will take effect as soon as the Owner receives the Notice of Termination.

MISCELLANEOUS

7. A copy of any Certificate of Compliance or Non-Compliance will be available for download from the NSW Swimming Pools Register.

8. All Swimming Pools must be registered by the Owner on the NSW Swimming Pools Register before any Certificate of Compliance or Non-Compliance can be issued.

ADDRESS FOR NOTICES

9. Where any Notice is to be forwarded to the Owner the address for such Notice shall be the address stated in the Application Form or to any other address that is notified in writing by the owner to the RC

DEFINITIONS

The Act means the *Swimming Pools Act 1992*. All amendments and references to the Act also mean amendments and references to the Regulations.

BCA means the Building Code of Australia 1996 including all applicable amendments.

Building means that which is the subject of the Building Works.

Owner means the owner or the owner's agent.

Certificate of Compliance means a Swimming Pool Certificate of Compliance within the meaning of the Act.

Certificate of Non-Compliance means a Swimming Pool Certificate of Non- Compliance within the meaning of the Act.

Notice includes any notice issued under the Act or this agreement and in respect of notices in this agreement must be made by pre-paid ordinary mail, electronic transmission or notice by hand delivery to the Address for Notices in this agreement.

Order means an Order issued by the Local Authority within the meaning of the Act.

Registered Certifier means a building certifier registered under the *Building and Development Certifiers Act 2018* and authorised to inspect and certify pools in NSW.

Statutory Notices means those notices that are issued by the RC in accordance with the Act.

Local Council means the relevant Local Council in respect to the property where the swimming pool is located.

Australian Standard means the version of AS1926.1 that was applicable at the time the swimming pool barrier was constructed or modified.

Modification means any changes to the original configuration of the swimming pool barrier

END OF AGREEMENT TERMS AND CONDITIONS

Building Commission NSW

Information about registered certifiers – swimming pool inspections
FACT SHEET

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 Building Commission NSW 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 Department of Customer Service website (which includes Building Commission NSW).[1] This is the applicable document for certification work under the *Swimming Pools Act 1992*. It does not apply to swimming pool inspections by a local council.[2]

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 the Building Commission NSW'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 Building Commissioner.

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.nsw.gov.au/departments-and-agencies/building-commission.
2 Council officers who inspect pools do not have to be registered as certifiers.

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 do?

Your certifier 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.

Your certifier 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 on the Service NSW website www.service.nsw.gov.au (search 'builder licence').

Questions?

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

You can also visit the Building Commission NSW website www.nsw.gov.au/departments-and-agencies/building-commission for information about how to resolve concerns about a certifier.

Note, although Building Commission NSW 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 Building Commission NSW website for more information.

Contact us
For more information please contact Building Commission NSW: **T:** 13 27 00 **W:** nsw.gov.au and search 'Building Commission NSW'