

Swimming Pools – Barrier Inspection Policy

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Contents

1. Purpose	1
2. Statement	1
3. Provisions	1
4. Definitions	2
5. Inspections	2
6. Inspections Fees.....	2
7. Enforcement.....	3
8. Implementation	3
9. Review	3

1. Purpose

The Swimming Pools Act 1992 requires Council to develop and adopt a program for the inspection of swimming pools in its Local Government Area. This policy aims to increase pool safety awareness and reduce the risks associated with infant drowning and near drowning in swimming pools by pursuing compliance with the requirements of the Swimming Pools Act 1992.

2. Statement

From October 2013 all councils are required to implement a program of swimming pool inspections. The purpose of the inspection program is to identify swimming pools that will be scheduled for inspection under the program.

Inspections under the program ensure the pool barrier effectively restricts access to the swimming pool in accordance with the provisions of the Swimming Pools Act. The inspection results in the issue of a Certificate of Non-Compliance or a Certificate of Compliance from the NSW Swimming Pools Register.

The inspection program requires inspections every three years for swimming pools associated with tourist and visitor accommodation and any rental accommodation. The program also includes pools at other multi-occupancy developments such as hotels, motels, serviced apartments, backpacker accommodation and unit complexes.

A three yearly inspection regime is required, as pools co-located with these occupancies are perceived as having a higher risk due to their more frequent use by a wider range of people.

Each council area must develop a swimming pool inspection program and engage in community consultation regarding the frequency of swimming pool inspections on privately owned pools that are associated with a residential building.

3. Provisions

Council aims to undertake the inspection of swimming pools ~~(both outdoor and indoor)~~ that are situated on premises associated with a residential building, in accordance with the following guidelines:

- **Complaints** – When a complaint is received by Council concerning swimming pool safety and is registered on Council's MERIT System.
- **Inspection by Request of Owner** – When an owner requests an inspection under Section 22C of the Swimming Pools Act 1992, and inspection will be conducted as per the requirements of the Act and Regulations. These may include inspections for:
 - the sale of land under the Conveyancing (Sale of Land) Regulations 2010 which requires any contract of sale of land to include either a Certificate of Compliance or Certificate of Non-compliance to be attached to any contract of sale.
 - rental properties where a Certificate of Compliance is required to be provided to a tenant under the Rental Tenancy legislation.
- **Building Information Certificate (BIC)** – Where Council receives a BIC application which involves a property with a swimming pool, a swimming pool barrier inspection will be conducted where there is no Certificate of Compliance or Occupation Certificate (within 3 years) or a non-compliance is noted with the swimming pool barrier.

- **Notification from Registered Certifiers** – Where a registered certifier is unable to issue a Certificate of Compliance within 6 weeks of their initial inspection, or in the case of a significant risk immediately after the inspection, they are required to forward a Notice to Council to undertake further enforcement action. Upon receiving the notice, Council will undertake an inspection. Where Council has inspected the pool and commenced action under section 23 of the Swimming Pools Act 1992, irrespective of the barrier being inspected by a private Certifier, Council is to carry out a reinspection of the swimming pool to finalise the section 23 action recorded against the property.
- **Internal Notification** – of pool issues referred to the Building & Compliance Department.

Proactive Inspections – When staff resources permit, Council Officers may proactively notify swimming pool owners that do not have a current Certificate of Compliance, that their pool barrier will be the subject of a pool barrier inspection, which will be conducted as per the requirements of the Act and Regulations.

4. Definitions

Certificate of Compliance in respect of swimming pools means a certificate issued under section 22D of the Swimming Pools Act.

Multi-occupancy development a building, or buildings that is, or are, situated on premises that consist of more than two dwellings.

Relevant occupation certificate in respect of a swimming pool, which means an occupation certificate issued under the Environmental Planning and Assessment Act 1979 that is less than 3 years old and that authorises the use of the swimming pool.

Swimming pool means an excavation, structure or vessel:

- a) That is capable of being filled with water to a depth great than 300 millimetres, and
- b) That is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

Tourist and Visitor Accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis and includes back packers accommodation, bed and breakfast accommodation, farm stay accommodation and serviced apartment. Note: this does not include residential accommodation operating as exempt development for short-term rental accommodation under Division 2 of the *State Environmental Planning Policy (Housing) 2021*

5. Inspections

Inspections will be carried out by Council Building Surveyors or Swimming Pool Compliance Officers engaged for the purpose of the program in a reasonable time in accordance with the Swimming Pools Act 1992 and Swimming pools Regulation 2018

6. Inspections Fees

Council will set fees for the first inspection and subsequent inspection for compliance certificate applications as adopted in Councils Management Plan and Fees and in accordance with the Swimming Pools Act and Swimming Pools Regulation

7. Enforcement

Council aims to achieve compliance through effective education and engagement of pool owners and the community. Council acknowledges the ultimate effectiveness of any pool safety barrier relies upon the awareness of the property owner and their willingness to ensure compliance and ongoing maintenance.

The Swimming Pool Act does provide mechanisms, such as Notices, Directions and penalty provisions which are used to actively encourage compliance where deemed necessary and appropriate.

8. Implementation

The policy will be implemented by City Development.

9. Review

This policy will be reviewed within one year of the election of every new Council, or earlier if circumstances arise to warrant revision.