



SWIMMING POOL INSPECTION PROGRAM

1. PURPOSE

- 1.1 The *Swimming Pools Act 1992*, Section 22B requires the Council to develop and implement a swimming pool inspection program in consultation with the community that increases pool safety awareness, and reduces infant drowning and near drowning events by ensuring compliance with the requirements of Part 2 of the Act - access to swimming pools – of the *Swimming Pools Act 1992*.
- 1.2 This program must be in place to commence implementation by 29 October 2013. Councils are then required to inspect swimming pools in accordance with the adopted program. The program was revised in 2015, with Revision 1 endorsed by Council for adoption on the 14 July 2015.

2. RELEVANT LEGISLATION AND STANDARDS

- 2.1 The legislation, regulation and standards that apply to the swimming pool inspection program include:
 - *Swimming Pools Act 1992*
 - *Swimming Pools Regulations 2008*
 - *Swimming Pools Amendment Act 2012*
 - *Swimming Pools Amendment (Consequential Amendments) Regulation 2013*
 - Building Code of Australia
 - Australian standards AS 1926.1
 - Australian standards AS 1926.2

3. RELEVANT DEFINITIONS

- 3.1 **Certificate of Compliance-** in respect of swimming pools means a certificate issued under section 22D of the *Swimming Pools Act*.
- 3.2 **Multi-occupancy Development** – a building or buildings that is, or are, situated on premises that consists of two or more dwellings.
- 3.3 **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.
- 3.4 **Swimming Pool-** means an excavation, structure or vessel:
 - a. that is capable of being filled with water to a depth greater than 300 mm 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 regulations not to be a swimming pool for the purposes of this Act.

- 3.5 **Tourist and Visitor Accommodation-** means a building or place that provides temporary or short-term accommodation on a commercial basis and includes backpackers accommodation, bed and breakfast accommodation, farm stay accommodation and serviced apartments.

4. THE IMPORTANCE OF POOL SAFETY

- 4.1 Swimming pools offer a social amenity that is of great benefit to those who have use and access to it. With this however goes an obligation outlined in legislation to maintain the pool in a safe manner.
- 4.2 The regulatory regime of pools on private property has been the subject of ongoing legislative review due to the tragic infant and toddler injury and death in swimming pools.
- 4.3 Children aged 4 years of age and under are the most vulnerable. They are dependent on their parents or carers for their safety. The personal and social cost associated with the death of a child is enormous and cannot be adequately described. The death of a young child in circumstances that could have been prevented is a tragedy for all.

5. THE INSPECTION PROGRAM

- 5.1 From October 2013 all councils are required to have in place and implement a program of swimming pool inspections. The purpose of inspections is to issue a certificate indicating that pool barriers in place comply with the pool safety legislative requirements.

6. WHAT IS A POOL CERTIFICATE OF COMPLIANCE?

- 6.1 A Pool Certificate of Compliance is issued once a pool has been inspected against the relevant pool safety requirements. The certificate is valid for three years. A pool may be inspected more frequently than three years if a complaint has been received with respect to pool safety or there is good reason to suspect the pool no longer complies with the pool safety requirements.

7. WHAT HAPPENS IF A POOL CERTIFICATE OF COMPLIANCE CANNOT BE ISSUED?

- 7.1 A Pool Certificate of Compliance cannot be issued if the pool is not passed at inspection as meeting the various requirements under the applicable standards. In such a case either Council or an accredited certifier must issue a notice specifying the works required. If the works are not undertaken or the pool

cannot pass a subsequent inspection then a Penalty Infringement Notice will be issued. Continuing refusal to comply will result in legal action.

8. HIGH RISK POOLS INSPECTED EVERY THREE YEARS

8.1 The legislation requires properties considered high risk to have their pool inspected every 3 years. This includes pools associated with:

- a moveable dwelling, hotel, motel, tourist / visitor accommodation, serviced apartments and other multi-occupancy developments.
- backpackers, bed and breakfast, farm stay accommodation, serviced apartments and residences of more than 2 occupancies.
- Child car centre / Family day car or premises accessed regularly by children for other than domestic purposes

9. PROPERTIES BEING SOLD OR RENTED / LEASED

9.1 From 29 April 2016 all properties with a pool being sold or rented / leased must have a current Pool Certificate of Compliance. Where a property with a pool is being sold or rented / leased, the pool owners must request an inspection and comply with the requirements of the inspection before a Pool Certificate of Compliance can be issued.

10. WHEN SWIMMING POOLS WILL BE INSPECTED

10.1 Council will undertake the inspection of swimming pools on a reactive basis incorporating a risk based approach.

- High risk pools that are required to be inspected every 3 years as specified in Section 8.
- Properties that require a Pool Certificate of Compliance because the property is being sold or rented / leased.
- All other swimming pools in the local government such as older pools, pools that have never been inspected or any other pool where Council has a reasonable concern over the safety of a pool barrier. Such pools may be required to obtain a Pool Compliance Certificate once the Pool barrier complies with the relevant requirements.

11. FEES

11.1 The *Swimming Pool Act* provides that Council may charge a fee the inspection conducted by an authorised officer, being a fee that is no greater than the maximum fee prescribed by the *Swimming Pool Regulation*. At the time of gazettal of the *Swimming Pool Regulation* (April 2013) the maximum initial inspection of \$150 is payable and a second inspection fee of \$100 is payable. No fee may be charged for further inspection.

11.2 Council will charge a fee of \$150 for an initial inspection (which includes the issue of a Certificate of Compliance for complying pool fences) and \$100 for one follow-up inspection.

12. EDUCATION AND AWARENESS

12.1 Pool owner education and awareness is essential in contributing to the success of the inspection program.

12.2 An ongoing complimentary community education and awareness program will be delivered through community publications, media releases, website information, owner self-assessment pool fence checklists and pool safety officer interaction with the public.

12.3 The importance of pool barrier maintenance and adult supervision a key messages to be delivered in a program.

12.4 The rates of pool barrier compliance are expected to progressively increase as a result of the inspection program and the gradual improvement of the level of community education awareness.

13. PENALTIES

13.1 There are a number of offences under that Act which attract fines, as follows:

Offence under the Act	Penalty Notice (issued by Council)	Court Maximum Penalty
Section 7(1): Failure to comply with general requirements for outdoor pools associated dwellings	\$550	50 penalty units = \$5500
Section 12: Failure to comply with general requirements were comfortable pools associated with movable dwellings and tourist and visitor accommodation	\$550	50 penalty units = \$5500
Section 14: Failure to comply with general requirements for indoor pools	\$550	50 penalty units = \$5500
Section 15(1): Failure to maintain child resistant barrier	\$550	50 penalty units = \$5500
Section 16: Failure of occupier to keep access to pool securely closed	\$550	50 penalty units = \$5500
Section 17(1): Failure to display or maintain a prescribed warning notice people	\$110	5 penalty units= \$550
Section 23 (3): Failure to	\$550	50 penalty units= \$5500

comply direction (pool safety order)		
Section 30B(1): Failure to register a pool	\$220	20 penalty units= \$2200

14. THE ROLE OF CERTIFIERS

14.1 Pool owners may request an Accredited Certifier to provide a pool certificate of compliance. Accredited Certifiers may set their own fees. Having conducted an inspection, if the pool does not meet the applicable standard, the Accredited Certifier may allow a pool owner six (6) weeks to rectify deficiencies before advising Council, or if considered to be a significant public hazard a certifier may notify Council immediately. Upon notification Council may commence compliance action.

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