

1. Preamble

In accordance with the *Swimming Pools Act 2012* (the Act) and *Swimming Pools Regulation 2008* (the Regulation) all NSW councils are required to develop and implement a swimming pool inspection program in consultation with their community.

2. Program objectives

The purpose of this Program is to ensure that Council complies with its legal obligation under the *Swimming Pools Act 1992* and reduce drownings in backyard swimming pools.

3. What properties does this program apply to?

This Program applies to swimming pools (both outdoor and indoor) that are situated or installed, on premises on which a residential building, a moveable dwelling or tourist and visitor accommodation is located, but does not apply to swimming pools that are situated, or proposed to be constructed or installed, on any premises occupied by the Crown or by a public authority.

4. What type of pool structures are subject to this program?

- Swimming pools, including inflatable pools that are capable of being filled with water to a depth greater than 300 millimetres, and
- a spa pool, but does not include a spa bath, anything that is situated within a bathroom, and
- swimming pools converted into a fish pond.

5. Under what circumstances will a swimming pool barrier be inspected?

Council's Program involves the inspection of swimming pool barriers in the following circumstances: -

- At the request of a pool owner to facilitate registering a compliant swimming pool;
- Where the swimming pool is the subject of a complaint;
- At the request of a pool owner requiring a certificate of compliance;
- When the property is being sold or leased;
- At the request of a property owner to provide advice;
- At three year intervals where the pool is associated with tourist, visitor accommodation and multi-unit housing developments.
- Where a premises is subject to a building certificate application;
- Where a property containing a swimming pool is visited by a Council officer during the course of his/her duties;

- Where a property containing a pool is subject to a development or complying development application;
- On a random basis when resources become available.

6. What are the current swimming pool safety standards?

Since 1992 the general requirement for child resistant barriers on residential properties is for the pool to be separated from the house, adjoining properties and public space at all times.

The requirement for child-resistant barriers on premises where there is a residential building varies according to when the pool was constructed and where the pool was located. These requirements are determined by the Act as follows:

- Pools built before 1 August 1990 - must have separate pool fence OR use house walls, windows, doors, side gates and/or boundary fences. The requirements for restricting access to the pool area through a door or window are set out in the Regulations applicable at the time the pool was built.
- Pools built after 1 August 1990 but before 1 September 2008 must have separate pool fence that separates the pool from the house and any place adjoining the premise but can use the walls of the house in accordance with Australian Standard 1926.1 - 1986 (Fences and Gates for Private Swimming Pools).
- Pools built after 1 September 2008 must have pool fence that separates the pool from the house and any adjoining premises in accordance with Australian Standard 1926 -2007 Swimming Pool Safety, Part 1: (Safety Barriers for Swimming Pools).

New swimming pools require development consent before they are constructed. Further, an accredited building certifier is required to inspect and certify by issuing an occupation certificate that the pool fencing is satisfactory before it can be used. Under the Act an occupation certificate is valid for three years.

If a child resistant barrier is substantially altered or rebuilt since it was first installed then the barrier is to comply with the Act.

7. What exemptions apply under the Act?

The exemptions under this Program will be the same exemptions that apply under the Act and Regulations.

8. What fees will be charged for a certificate of compliance?

Council will not charge a fee higher than that prescribed by the Act and Regulation.

9. What methodology will be used for investigating complaints?

Upon receipt of a complaint about the adequacy of a swimming pool barrier, Council will issue a direction requiring the owner of the pool to obtain a certificate of compliance. This certificate can be obtained from Council or a person accredited under the Building Professional Act 2005 to issue these certificates.

10. What methodology will be used for undertaking random inspections?

Where resources permit, Council will undertake random swimming pool barrier inspections.

Where a Council officer during the course of his/her duties identifies that a swimming pool may not have a compliant pool barrier, Council will issue a direction requiring the pool owner to obtain a certificate of compliance.

11. In what circumstances will Council not inspect a swimming pool barrier?

Inspections will not be undertaken of a swimming pool barrier that has a valid certificate of compliance or a relevant occupation certificate. A relevant occupation certificate means a 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.

12. How will I be advised that my pool barrier is to be inspected?

Pool owners will be notified in writing that their swimming pool barrier is to be inspected. The pool owner will have 4 weeks to engage Council or a person accredited under the *Building Professional Act 2005* to inspect their pool.

13. What time frame will be given to rectify a defective swimming pool barrier?

Depending on the level of risk to public safety and the extent of the work required to bring the swimming pool barrier up to the required standard, Council will allow no more than 24 months after the date of the initial inspection (or such other time as may be prescribed by the regulations) to obtain a certificate of compliance.

14. What constitutes a significant risk to the public safety?

A swimming pool could be considered a significant risk to public safety where there is no barrier that separates the pool from the adjoining property or a public place. Or the existing barrier has been removed or is dilapidated.

15. Definitions

The definitions under this Program are the same definitions that apply under the Act and Regulations.

16. Variations

Council reserves the right to vary this Program where, in the opinion of the Council the variation does not diminish the intent of the Program, seeks to provide clarity to an item or is a legislative requirement.

End of document

Adopted by Council on 16 October 2013