

Swimming Pool Inspection Policy

1 Document Information

Version Date <i>(Draft or Council Meeting date)</i>	[22 May 2018]
Author	Director of Environmental Services
Owner <i>(Relevant director)</i>	Director of Environmental Services
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2 Summary

The Swimming Pools Act 1992 (the Act), as amended, requires council to develop and implement a mandatory swimming pool inspection program, in consultation with the community. Council has resolved as a matter of policy to adopt such a program and must inspect swimming pools in accordance with the Swimming Pool Inspection Program.

3 Approvals

Title	Date Approved	Signature
Director of Environmental Services		

4 History

Minute No.	Summary of Changes	New Version Date
14/03/16	First adopted	18 March 2014
18/05/20	Readopted as per s165(4)	22 May 2018

5 Reason

This document outlines the proposed Swimming Pool Inspection Program for Cabonne Council. The program aims to reduce the risk of children drowning in swimming pools by developing a comprehensive inspection schedule for all swimming pools located in the local government area. Section 22B of the Act requires the development and implementation of the program by 29 October 2013.

6 Scope

The Cabonne Council Swimming Pool Inspection Program is to be implemented in two stages and is aimed at improving the compliance of pool barriers in the local area.

7 Associated Legislation

Swimming Pools Act 1992

Swimming Pools Regulation 2008

Swimming Pools Amendment Act 2012

Swimming Pools (consequential amendments) Regulation 2013

8 Definitions

Barrier - a fence or a wall and includes:

- (a) a gate or door set in the fence or wall, and
- (b) any other structure or thing declared by the regulations to be a barrier for the purposes of the Swimming Pools Act.

Certificate of compliance – in respect of swimming pool, means a certificate issued under section 22D of the Swimming Pools Act.

Dwelling – a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. Premises containing more than two dwellings would include a residential flat building, town houses, villas and the like.

Multi-occupancy development – a building, or a group of buildings, that is/are situated on premises that consists of two or more 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 three years old and that authorises the use of the swimming pool.

Swimming pool – an excavation, structure or vessel;

- a. that is capable of being filled with water to a depth greater than 300mm, including inflatable pools, and
- b. that is solely or principally used or that is designed, manufactured or adapted to be solely 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 the Act.

Tourist and visitor accommodation – 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, hotel or motel

accommodation and serviced apartments, but does not include camping grounds or caravan parks.

9 Responsibilities

9.1 General Manager

The General Manager is responsible for the overall control and implementation of the policy.

9.2 Director of Environmental Services

The Director is responsible to ensure the Health & Building Surveyor or other qualified persons respond to complaints and undertake inspections as required.

10 Related Documents

Document Name	Document Location
Swimming Pool Inspection Program	Contained herein

11 Policy Statement

Introduction

The Swimming Pools Act 1992 (the Act), as amended, requires council to develop and implement a mandatory swimming pool inspection program, in consultation with the community. Council must inspect swimming pools in accordance with the Swimming Pool Inspection Program.

This document outlines the proposed Swimming Pool Inspection Program for Cabonne Council. The programs aims to reduce the risk of children drowning in swimming pools by developing a comprehensive inspection schedule for all swimming pools located in the local government area. Section 22B of the Act requires the development and implementation of the program by 29 October 2013.

Background

Drowning is one of the major causes of death for NSW children under the age of five. Each year on average 10 children under five years of age drown in backyard swimming pools and many more suffer brain damage and other serious injuries associated with near-drowning accidents.

The Swimming Pool Act was amended on 20 October 2012 to address concerns about the high rate of non-compliance with swimming pool barrier requirements. Pool owners are required under the amending legislation to register their pools on a state wide register. The register promotes pool safety and pool compliance. It is a requirement that all bodies of water over 300mm in depth that are primarily used for human aquatic activity (including wading and paddling pools) be fenced. These requirements differ based on the age of the pool, the type of pool and its location. Council has a regulatory responsibility for swimming pool safety.

The following amendments to the Act came into effect on 29 April 2013:

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- Mandatory state-wide registration of swimming pools, and
- Mandatory pool inspection program

Additionally the Swimming Pools Amendment Act specified amendments to the Conveyancing (Sale of Land) Regulation 2010 and the Residential Tenancies Regulation 2010 which commence operation on 29 April 2014. These amendments will require owners and / or landlords of properties with swimming pools to obtain a valid Certificate of Compliance (section 22D of the Act) prior to the sale or lease of their properties.

Pool inspection program

The Cabonne Council Swimming Pool Inspection Program is to be implemented in two stages and is aimed at improving the compliance of pool barriers in the local area.

Stage 1

Complaints

Where a complaint has been received by council concerning an alleged defective swimming pool barrier, the pool owner is to be contacted to arrange for an inspection. The Act requires where practicable that an investigation of complaints should be commenced within 72 hours of being received.

Where the complaint upon inspection is substantiated, correspondence will be issued to the land owner of the swimming pool outlining the required works to bring the barrier into compliance. The pool owner will be given a time frame in which to have the works completed and to arrange for a reinspection.

Applications for Swimming Pool Certificates of Compliance

Upon application being made to council for a Certificate of Compliance, and the payment of the prescribed fee, council will carry out an inspection of the swimming pool. Where the application form indicates that it relates to the sale or lease of the premises, the inspection will be carried out within ten (10) business days of receipt of the application and inspection fee. Where a defective barrier is identified, correspondence will be issued to the owner of the swimming pool.

Where necessary re-inspection will be undertaken by council and the prescribed re-inspection fee will apply to the swimming pool owner. A Certificate of Compliance will be issued in respect of a swimming pool that is registered on the Office of Local Government Swimming Pools Register and that complies with the relevant requirements of the Act.

Inspections at the request of a land owner

The owner of a swimming pool may make application to council under section 22C of the Act for an inspection of a swimming pool, including seeking advice relating to swimming pool safety and compliance. Upon receipt of an application and payment of the prescribed inspection fee an inspection will be carried out. Where a defective barrier is identified, correspondence outlining required work will be issued to the swimming pool owner.

Tourist and visitor accommodation and multi occupancy developments

Where swimming pools are located upon land associated with these land uses the properties are to be inspected at least once every three years (commencing from 29 April 2014). Property owners will be contacted to arrange for a site inspection and payment of the prescribed fee. Where a defective barrier is identified correspondence will be issued to the owner of the swimming pool outlining the required works.

Stage 2

Other swimming pool inspections

Where inspection resources permit, the Department of Local Government Swimming Pool Register will be reviewed to identify swimming pools located within the Cabonne Council area and to review them according to risk categories. The highest risk category will include:

- Older style pools that are more likely to have had changes made to their barrier or require greater amounts of maintenance that may not have been attended to
- Swimming pools that may not have had a final inspection carried out
- Pools located upon rural or rural residential properties where the property has an area in excess of 2ha, and where residential development is nearby. Swimming pools installed without a barrier that were compliant with the legislation at that time are to be inspected to ensure restricted access from the associated residence has been maintained in accordance with the Act, and
- Properties with pools that have been identified as not having had any inspections in the past five years or longer. Property owners will be contacted to arrange access for an inspection to be carried out and for the payment of the prescribed inspection fee. Where a defective barrier is identified correspondence will be issued to the owner of the swimming pool outlining required work.

A swimming pool that constructed prior to the current legislation may comply with the earlier legislation, but not where the barrier has been substantially altered or

reconstructed. Where the original barrier has been altered or reconstructed the barrier will be required to be upgraded to comply with current legislation for child resistant barriers.

Strategy for checking compliance

Inspections of swimming pools will be carried out to determine compliance with the relevant safety standards. If swimming pool barriers have:

- Not been altered then the barriers will be required to comply with the safety standards that were applicable at the time of construction.
- Been substantially altered, or the access way to the pool rebuilt, then the swimming pool barriers will be required to comply with the safety standards applicable when the modifications were assessed.
- Never complied with the relevant safety standards applicable at the time of construction of the swimming pool then the pool barriers will be required to comply with the current safety standards

Unauthorised pool installation

Where a site inspection has been carried out and it is revealed that the swimming pool in question was not approved prior to its installation (Development Consent was not obtained), a Building Certificate and Certificate of Compliance is to be sought for the swimming pool and the pool barrier. The swimming pool will be required to comply with the current legislation.

Swimming pool inspection fees

In accordance with the legislation an inspection fee of \$150 will apply. Should a further inspection be required an additional inspection fee of \$100 will be required at the time of booking the re-inspection. Subsequent pool re-inspections will not incur further inspection fees.

Resources

Information about swimming pool safety, the responsibility of swimming pool owners, the role of council and the amended legislation is available online. Resources include:

www.dlg.nsw.gov.au

www.bepoolsafe.com.au

www.royallifesaving.com.au

The NSW Swimming Pools Register can be sourced through the website www.swimmingpoolregister.nsw.gov.au