



Swimming Pool Barrier Inspection Policy

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Version	2
Responsible Position	Planning Unit Manager
Administration Reference	Doc Set ID 5661475

1. PURPOSE

The Swimming Pool Act 1992 requires Council to develop and adopt a program for the inspection of swimming pools in its area. To fulfil its legal obligations Council is required to inspect swimming pools in accordance with this program.

2. CITY STRATEGY OUTCOME

3.1 - Foster feelings of safety, security and cleanliness.

3. APPLICATION

This policy applies to:

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

4. POLICY PRINCIPLES

Council will ensure:

- it complies with its legal obligations under the *Swimming Pool Act*
- swimming pools within the Willoughby City Council area are adequately surrounded by a child resistant barrier
- set guidelines for the inspection program ensuring pools and pool owners comply with relevant legislation
- promotion of awareness within the Willoughby City Council area of the requirements of the *Swimming Pool Act*

5. POLICY STATEMENT

Inadequate pool fencing remains a major contributing factor in the rate of drowning and non-fatal drowning among children under five years of age.

This policy will enable the Willoughby City Council to:

- be proactive in terms of pool safety and follow up complaints about non-compliance in a timely manner
- co-operate with the Office of Local Government in meeting its obligations under the *Swimming Pool Act*
- implement a swimming pool barrier inspection program
- acknowledges that where this policy is inconsistent with any of the provisions of the *Swimming Pool Act* and *Regulations* thereunder then the *Act* and *Regulations* shall prevail

6. RESPONSIBLE OFFICER

The Planning Unit Manager will ensure:

- the implementation of the Swimming Pool Barrier Inspection Policy
- adequate provision of resources to effectively implement the Policy
- appoint authorized staff with relevant delegation, including Certification Officers.

7. MONITORING AND REVIEWS

The Certifications Team Leader will:

- monitor The Swimming Pool Barrier Policy
- ensure Council complies with legal obligations under the Act
- program and implement the inspection program
- maintain records
- undertake reporting
- promote awareness of the requirement of the Act
- review and amend the policy as required

8. SWIMMING POOL BARRIER INSPECTIONS

8.1 STAFF RESOURCES

Council will ensure employment of suitably qualified staff to oversee the program and ensure Council complies with its legal obligations. Specialist staff will also provide high level safety advice to the organization and the community.

8.2 PROGRAM COMPONENTS

- a) Council will promote awareness on the need to register *swimming pools*
- b) identification of pools to be inspected
- c) child resistant barriers identified by Council as requiring upgrading will be required to undertake specified upgrading work within a prescribed time frame
- d) identifying methods of investigation and procedures
- e) Council will issue certificates of compliance and certificates of non-compliance where appropriate

8.3 POOL REGISTRATION AWARENESS

The owner of the premises on which a swimming pool is situated must register their pools on an online register provided by the Office of Local Government. The owner is also required to self-assess, and state in the register that, to the best of their knowledge, their swimming pool barrier complies with the applicable standard when registering their pool.

Failure to register a swimming pool within the required timeframes is an offence under the

Swimming Pool Act 1992. This may result in penalty infringements being issued in accordance with the requirements of the *Swimming Pool Act 1992*.

8.4 IDENTIFICATION OF POOLS TO BE INSPECTED

8.4.1 In what circumstances will Council inspect swimming pools as part of the swimming pool barrier inspection program?

- a) where the pool *barrier* is the subject of a complaint (Council is required to commence investigation within 10 working days)
- b) where an application to inspect the pool *barrier* is made by the owner required prior to sale or lease of a premises (An inspection is required to be carried out within 10 working days of a written request)
- c) where an inspection by Council's officers is carried out at the subject premises when acting as the Principal Certifying Authority (other than that required by this clause)
- d) where the premises is subject to a Building Certificate application
- e) at three year intervals where the pool is associated with tourist, visitor accommodation and multi-unit developments or more than two dwellings
- f) inspections referred to Council by private accredited certifiers who have referred a certificate of non-compliance and report which identifies that the swimming pool poses a significant risk to public safety, including a certificate of non-compliance and report which identifies that the swimming pool poses a non-significant risk and that property is a multi-unit development or on a lot with more than two dwellings

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

Inspections will not be undertaken of a swimming pool in respect of which there is a valid certificate of compliance or a relevant occupation certificate. A relevant occupation certificate is 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.

8.4.3 What type of pool structures are subject to this program?

- Swimming pools including inflatable pools which are capable of being filled to a depth of water greater than 300 mm
- Spa pools

8.5 WHAT ARE THE RELEVANT STANDARDS?

All swimming pools are at all times to be surrounded by a child resistant barrier

- that separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises, and
- that is designed, constructed, installed and maintained in accordance with the standards prescribed by the *Swimming pools Regulations*

Generally this means that a child resistant *barrier* is required to comply with the *Swimming Pool Act 1992* and the relevant *Australian Standard 1926.1*.

Access to spa pools is to be restricted in accordance with the *Swimming Pool Act 1992* which includes being fitted with a lockable lid.

8.6 COMPLIANCE CERTIFICATES

8.6.1 When will Council issue a Certificate of Compliance (Section 22 D of the *Swimming Pool Act 1992*)

A *Certificate of Compliance* is issued where a swimming pool has been registered on the Register of Swimming pools maintained by the Director General of the Division of Local Government and the pool has been inspected by a Council Officer and found to comply with the requirements of the *Swimming Pool Act 1992*. A *Certificate of Compliance* will be issued to the owner of the property.

8.6.2 For how long is a compliance certificate valid?

A *Certificate of Compliance* remains valid for 3 years from the date on which it is issued but ceases to be valid if a direction is issued under Section 23 of the *Swimming Pool Act 1992*.

8.6.3 What fees will be charged for compliance certificates?

Council cannot charge a fee higher than that prescribed by the *Swimming Pool Act* and *Regulations* thereunder.

8.7 COMMUNITY ENGAGEMENT

Clause 16 of the *Swimming Pool Regulation* requires Council to establish and implement a strategy for engagement with the local community when developing and amending the program for the inspection of swimming pools in its area. This has been and will continue to be done on an ongoing basis as part of Council's Community Engagement Framework which is based on social justice principles of equity, access, participation and rights.

Governing laws and standards	<ul style="list-style-type: none">• <i>Local Government Act 1993</i>(NSW)• <i>Local Government (General) Regulation 2005</i> (NSW)• <i>Swimming Pool Act 1992</i> (NSW)• <i>Swimming Pool Regulations 2008</i> (NSW}• <i>National Construction Code 2016</i>• <i>Australian Standard 1926.1-1986,2007&2012</i>
Related policies and other documents	
Document History	<ul style="list-style-type: none">▪ Date amended: 7 August 2017▪ Date adopted: 14 October 2013

Appendix

Definitions	
Barrier	a fence or a wall, and includes: <ul style="list-style-type: none">a) any gate or door set in the fence or wall, andb) any other structure or thing declared by the regulations to be a barrier for the purposes of the Swimming Pool Act.
Certificate of Compliance	a certificate issued under section 22D of the Swimming Pool Act.
Certificate of non-compliance	a certificate issued under section 188 of the Swimming Pools Regulation.
Relevant occupation certificate	in respect of a swimming pool means an occupation certificate issued under the <i>Environmental Planning and Assessment Act 1979</i> that is less than 3 years old and that authorises the use of the swimming pool.
Residential building	a building (such as a dwelling-house, residential flat building or boarding louse) that is solely or principally used for residential purposes, and includes any structure (such as a garage or shed) that is ancillary to any such building, but does not include: <ul style="list-style-type: none">a) a building that merely forms part of a complex of buildings (such as a school or recreational centre) that is principally used for non-residential purposes, orb) a moveable dwelling, orc) tourist and visitor accommodation, ord) a shed that is ancillary to a swimming pool and the primary purpose of which is to store equipment that is used in connection with the swimming pool (but not a shed of a kind prescribed by the regulations), ore) a building or structure of a kind prescribed by the regulations.
Spa pool	includes any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.
Swimming pool	an excavation, structure or vessel: <ul style="list-style-type: none">a) that is capable of being filled with water to a depth greater than 300 millimeters, andb) 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 the <i>Swimming Pool Act</i>.