

Swimming Pool Barrier Inspection Program

Program Objective

To implement an inspection program that effectively meets Council's obligations under the Swimming Pools Act and Regulation, increases pool safety awareness and reduces infant drowning and near drowning events within the Clarence Valley Council Local Government Area.

Background

A comprehensive review of swimming pool legislation has been undertaken by the NSW Division of Local Government. The change in legislation has been brought about because of the rate of preventable drownings and near drownings in privately owned swimming pools and the high rate of non-compliance of swimming pool barriers in NSW.

The resulting amendments to the Swimming Pools Act require, in part, that NSW councils develop and implement a locally appropriate swimming pool barrier inspection program in consultation with the community, for privately owned swimming pools.

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 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 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 greater 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 apartments.

Inspection Program Requirements

- a) Commencing 29 April 2014, Council shall inspect all swimming pools associated with tourist and visitor accommodation and multi-occupancy developments at a maximum of 3 yearly intervals. (statutory requirement)
- b) Commencing 29 April 2014, where requested by the property owner or on behalf of the property owner, Council shall inspect within reasonable time, all properties which have a swimming pool prior to their sale or lease. (statutory requirement)

- c) Council shall inspect any swimming pool within reasonable time that is subject of a customer, staff or owner request or complaint, to ensure the pool barrier is installed in accordance with Swimming Pools Act requirements. (statutory requirement)
- d) Council shall inspect and take appropriate regulatory action in respect of swimming pools that have been constructed without development consent, or that are installed or are being used in contravention of conditions of development consent or other legislative requirements. (local requirement)
- e) Commencing 29 October 2013, Council shall inspect other non-mandatory residential properties that contain swimming pools as part of a proactive program to improve the level of compliance of pool safety barriers and reduce the incidence of infant drownings or near drownings. The proactive inspection program will incorporate a risk based approach whereby unauthorised pools and authorised pools with outstanding final inspections will have high priority. (local requirement)
- f) The program will not require the inspection of a swimming pool in respect of which there is in force a valid certificate of compliance or a relevant occupation certificate which are valid for a period of 3 years. (statutory requirement)
- g) Council will also inspect a swimming pool under the following circumstances –
 - i. Where a swimming pool exists on a premises subject to a Development Application (local requirement)
 - ii. Where a swimming pool exists on a premises subject to a Complying Development Certificate application lodged with Council (local requirement)
 - iii. Where a swimming pool exists on a premises subject to a Complying Development Certificate issued by a private certifier where no works are proposed to the swimming pool barrier (local requirement)

Inspection Fees

The Swimming Pools Act provides that Council may charge a fee for inspection conducted by an authorised officer, being a fee that is not greater than the maximum fee prescribed by the Swimming Pools Regulation.

In addition, the Swimming Pools Act provides that Council may charge a fee for one re-inspection.

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 follow up inspection.

Resourcing

Council will engage appropriate staff to implement the inspection program and associated responsibilities including, but not necessarily limited to:

- Inspection of swimming pools in accordance with the adopted inspection program and its requirements;
- The identification of unregistered and unauthorised swimming pools;
- The enforcement of the requirements of the Swimming Pools Act where appropriate;
- The issue of certificates of compliance; and,
- Program reporting.

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 will be used to actively encourage compliance where deemed necessary and appropriate.

Education and Awareness

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

An ongoing and complementary community education and awareness program will be delivered through community publications, media releases, web site information, owner self- assessment pool fence checklists and Council officer interaction with the public.

The importance of pool barrier maintenance and adult supervision are key messages to be delivered within the program.

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 and awareness.

Reporting

Council will report annually to the community and the NSW Division of Local Government on the number of swimming pool inspections undertaken and the level of compliance with the requirements.

Adopted by Council 19 November 2013 (Council resolution number 13.245/13).