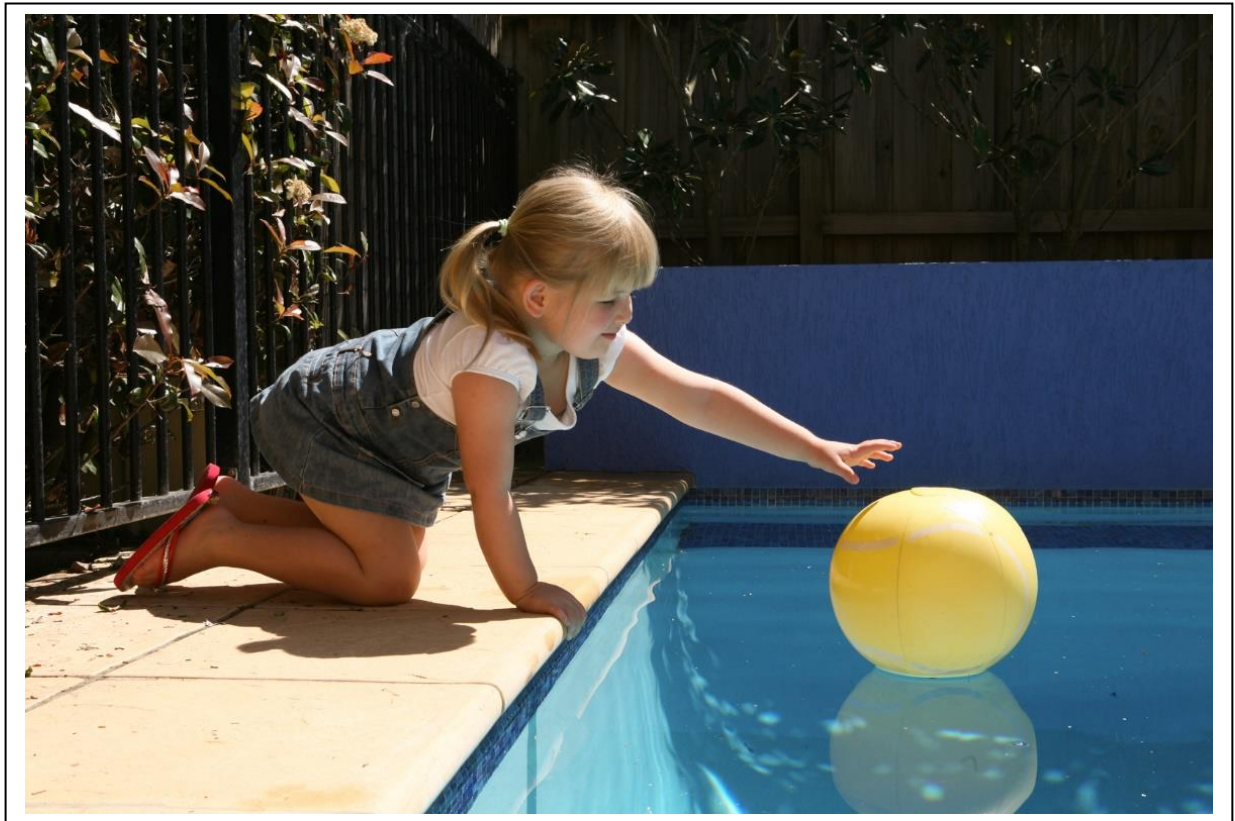




Swimming Pool Inspection Program



Swimming Pool Inspection Program

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Westmead

Swimming Pool Inspection Program

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Swimming Pool Inspection Program

OUTCOMES

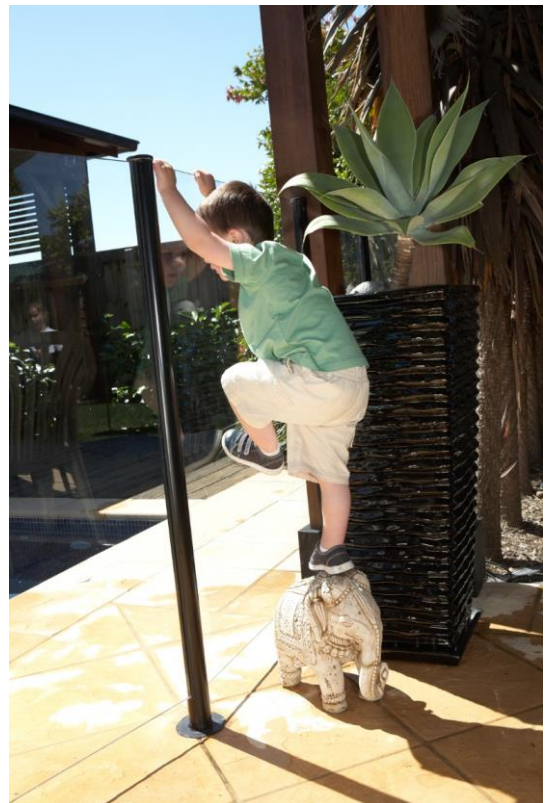
In late 2012 and early 2013 the NSW Minister for Local Government introduced the *Swimming Pools Amendment Act 2012* and the *Swimming Pools Amendment (Consequential Amendments) Regulation 2013*, which introduced a number of new requirements for Council and pool owners. Specifically the changes to the Act require councils to prepare a Swimming Pools Inspection Program that must be prepared in consultation with the community.

This document has been prepared to satisfy the requirements of Section 22B of the *Swimming Pools Act 1992*.

PROGRAM

The purpose of this Program is to:

- a) Adhere to the requirements of section 22B of the *Swimming Pools Act 1992 as amended*;
- b) Increase awareness of pool safety and reduce the incidence of drowning and near drowning events for young children in the Queanbeyan-Palerang Regional Council (QPRC) local government area;
- c) Ensure all private swimming pools are surrounded by a child resistant barrier which is designed, constructed and maintained to the prescribed standard;
- d) Ensure all public swimming pools are maintained and operated in accordance with the prescribed standards;
- e) Outline the process related to the monitoring and inspection of swimming pools in the QPRC Local Government Area; and
- f) Ensure upgrade works are carried out where a non-compliant pool is identified.



SCOPE OF THE PROGRAM

This plan applies to:

- All swimming pools located within the QPRC local government area; and
- All proposed swimming pool installations within the QPRC local government area;

A reference to a swimming pool in this document also includes a spa pool.

This plan is principally aimed at outlining Council's roles and responsibilities in the ongoing inspection and monitoring of public and private swimming pools against relevant legislation.

Swimming Pool Inspection Program

DEFINITIONS

Certificate of Compliance means a certificate issued under section 22D of the *NSW Swimming Pools Act 1992*.

Certificate of Non-Compliance means a certificate issued under clause 21 of the *NSW Swimming Pools Regulations 2018*.

Exemption Certificate means a certificate issued under section 22 of the *NSW Swimming Pools Act 1992*.

Movable Dwelling has the same meaning as in the *NSW Local Government Act 1993*.

Occupation Certificate means a certificate issued under Part 4A of the *Environmental Planning and Assessment Act 1979*.

Public Swimming Pool or Spa Pool has the same meaning as in the *NSW Public Health Act 2010*.

Swimming Pool Register means the online state run register found at www.swimmingpoolregister.nsw.gov.au.

Tourist and visitor accommodation has the same meaning as in the Palerang (2014) and Queanbeyan (2012) Local Environmental Plans.

LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

Council complies with the following legislation and legislative instruments impacting on local government operations.

1. Further detail on each of the following items can be found within Appendix 1.
 - NSW Swimming Pools Act 1992 and Regulations;
 - National Construction Code(NCC) Series;
 - Australian Standard 1926 parts 1 and 2: Swimming Pool Safety;
 - Guideline 8: Cardiopulmonary Resuscitation;
 - NSW Conveyancing (Sale of Land) Regulation 2010 and Regulations;
 - NSW Residential Tenancies Act 2010 and Regulations; and
 - NSW Public Health Act 2010 and Regulations.
2. This Program is to be read in conjunction with the following QPRC documents
 - Code of Conduct;
 - Customer Service Charter;
 - Complaints Management Policy;
 - Records Management Policy;
 - The 2015 Enforcement Policy of the former Palerang Council;
 - The 2013 Enforcement Policy of the former Queanbeyan City Council ; and
 - Council's adopted Fees and Charges
3. This Program rescinds the following policies:
 - The former Palerang Council Swimming Pool Inspection Program 2013
 - The former Queanbeyan City Council Pool Inspection Program 2013

Swimming Pool Inspection Program

CONTENT

Inspections will be carried out based on the availability of resources and the priorities indicated below in relation to the types of or reasons for inspections.

Priority 1 - Investigation of Complaints and Concerns

If a member of the community raises concerns with Council that any private or public swimming pool barrier allegedly does not meet the requirements of the Swimming Pools Act or Regulations, Council will as far as is practicable, commence investigation of the concern within three working days after it is received.

The inspection will be carried out regardless of whether a valid Compliance Certificate or Occupation Certificate is in force for the pool. There will be no charge for complaint inspections. If following an inspection, the complaint is found to be substantiated Council may begin enforcement proceedings.

Council reserves the right to decline to investigate a concern that it considers to be vexatious, misconceived, frivolous or lacking in substance. Council will notify the complainant in writing if it decides not to investigate a concern.

Priority 2 - Owner Requested Compliance Inspections

As of 29 April 2014 owners of properties on which a private swimming pool is located are required under the Residential Tenancies Act and the Conveyancing (Sale of Land) Regulations, to obtain a Compliance Certificate under the Swimming Pools Act prior to the lease or sale of any property on which a swimming pool is located.

The property owner may request Council to undertake an inspection of a pool at their premises whether for the purposes of leasing, sale or simply peace of mind. Requests will need to be made in writing and a fee will be charged to carry out the inspection. Council will, as far as is practicable, commence inspection of the pool within 10 working days after the inspection has been booked and paid for.

Prior to carrying out the inspection Council will check the swimming pool register to determine if the pool has a valid Compliance Certificate or Occupation Certificate in force. If so, the applicant will be advised and asked if they wish to proceed with the inspection. If the applicant subsequently requests that the inspection be cancelled the inspection fee will be refunded less 10% for administrative costs. If the applicant wishes to proceed with the inspection it will be carried out as normal.

If, following the inspection, the pool is found to be compliant and registered on the state government pool register, a Compliance Certificate will be issued in respect of the pool.

Where the pool fence is found to have a minor non-compliance then the applicant may elect to receive a Certificate of Non-Compliance, which requires the non-compliances to be corrected within 90 days of the settlement of the property.

Where the pool fence is found to have major non-compliances then Council may begin enforcement proceedings.

Swimming Pool Inspection Program

Priority 3 – Applications for Exemptions

Section 22 of the Swimming Pools Act provides for a swimming pool owner to make application to Council for an Exemption from all or any of the requirements of Part 2 of the Act, in certain circumstances. On receipt of an application and the appropriate fee, Council will undertake an inspection of the swimming pool. After the inspection, a report shall be prepared to assess the justification for granting the exemption and the assessing officer shall make a recommendation as to how the application should be determined. The final decision on whether to accept the recommendation shall be carried out by the assessing officer's Portfolio General Manager.

If further works are necessary to make the swimming pool barrier compliant, Council may commence enforcement action.

Priority 4 - Mandatory Swimming Pool Barrier Inspection Program

Where pools are situated on premises where there is a movable dwelling, tourist and visitor accommodation, or more than two dwellings, Council will inspect premises once each calendar year. This includes, but is not limited to:

- Motels;
- Hotels;
- Caravan parks;
- Boarding houses;
- Multi unit developments; and
- Residential flat buildings

A fee will be charged for these inspections.

If, following the inspection, the pool is found to be compliant, a Compliance Certificate will be issued in respect of the pool. If the pool is not compliant Council may begin enforcement proceedings.

Priority 5 - Public Swimming Pool Water Quality Inspection Program

Swimming pools have the potential to have serious impacts on the health of its users if water quality is poorly maintained. In pools used by the public the potential impacts are far greater because of the number of people who use them and because many of these can be susceptible users (e.g children). Council therefore considers inspections of pool management practices and processes should be conducted of all public swimming and spa pools.

Council will aim to undertake the inspection of all public swimming pools at least once annually. The frequency of inspection will be dependent on available resources. A fee will be charged for inspections and any analysis of samples required to be taken.

Inspections will include testing of:

- Chemical parameters for both cold and warm water pools, and spas; and
- Microbiological parameters of warm water pools, spas and any cold water pools which fail the chemical tests.

Swimming Pool Inspection Program

Pool water quality will be assessed against the provisions of the Public Health Act 2010. Non-compliances with the Act may result in Council taking enforcement action.

Priority 6 – Non Mandatory Random Advisory Inspections

Since 1996 Council has conducted pool barrier safety inspections of backyard swimming pools and spas. The purpose of the inspections was to meet Council's obligations under the Act to promote the awareness of swimming pool safety in backyard pools.

While the Act does not mandate that routine inspections of all pools take place, Council considers there is value in undertaking this program.

Each year Council will aim to conduct random pool barrier safety inspections of at least 10% of active pools listed on the NSW Swimming Pool Register. The following premises will not be included within the random selection:

- Premises with a current Certificate of Compliance or Non-Compliance;
- Premises which have had, within the last three years, an occupation certificate issued under the Environment, Planning and Assessment Act 1979;
- Premises which have had a random inspection conducted within the last three years; and
- Premises which are already inspected annually under Priority 4 of this Program.

Inspections will be free of charge.

Compliance Certificates will not be issued for these Non-Mandatory Advisory Inspection. Council will advise pool owners of one of the following:

- That at the time of inspection there were no discernible reasons for Council to take further action; or
- That they should carry out specified maintenance to bring the pool onto compliance with the Act; or
- That there were significant departures from the requirements of the Act identified and that enforcement action will be commenced to bring the pool into compliance.

Priority 7 – Free on-demand advisory inspections

Where the owner or occupier of a premises within the QPRC local government area requests, Council shall undertake an inspection of the swimming pool safety fencing for compliance with the NSW Swimming Pools Act 1992. This will be undertaken at no cost.

Compliance Certificates will not be issued for these free on-demand Advisory Inspections. Council will advise pool owners of one of the following:

- That at the time of inspection there were no discernible reasons for Council to take further action; or
- That they should carry out specified maintenance to bring the pool onto compliance with the Act; or
- That there were significant departures from the requirements of the Act identified and that enforcement action will be commenced to bring the pool into compliance.

Swimming Pool Inspection Program

EDUCATION AND AWARENESS

Council will run proactive community awareness programs with regard to swimming pool safety in the area. This may include media releases at the start of the swimming season, mail outs of information to pool owners, website and social media promotion, self-assessment checklists and provision of advice to the public.

The key messages to be delivered by the program are the importance of barrier maintenance and adult supervision of young children around water and will be triggered and guided by the outcomes of all inspections conducted.

REPORTING

Council must include in its Annual Report the number of private pool safety fencing inspections undertaken and the level of compliance with the requirements.

Council is required to report annually to the NSW Ministry of Health on all enforcement action taken against public swimming pools and spa pools under the Public Health Act.

FEES AND CHARGES

Council charges fees for inspections as detailed in its annual Fees and Charges which may be viewed online or by visiting Council's offices. These fees cover the costs associated with the implementation and running of the program.

PERFORMANCE INDICATOR

1. That each year Council fulfils its obligations under the NSW Swimming Pools Act 1992 and NSW Public Health Act 2010; and
2. Conduct random pool barrier safety inspections of at least 10% of active pools listed on the NSW Swimming Pool Register.

Swimming Pool Inspection Program

Appendix 1 – Relevant Legislation & Standards

In the event that the Legislation, Guidelines, or Australian Standards are revised post the adoption of this Program, the revised documents are to replace the repealed documents specified.

Swimming Pools Act 1992 and Regulations

In NSW, private or 'backyard' swimming pool safety is legislated by the Swimming Pools Act 1992 (the Act) and the Swimming Pools Regulation 2008 (the Regulation). The legislation also applies to moveable dwellings, hotels and motels.

The Swimming Pools Act 1992 prescribes the fencing requirements for backyard swimming pools in NSW. Some other safety requirements are prescribed including the requirement for a CPR sign to be displayed near the pool.

The Swimming Pools Regulation 2008 was re-made on 1 September 2008. It calls up AS1926.1-2007 Swimming Pool Safety, Part 1: Safety barriers for swimming pools, which includes new requirements for non-climbable zones, mesh sizes for fences, retaining walls that form part of a barrier and balconies that project into the pool area.

On 1 May 2011 the Swimming Pools Regulation was further amended to replace certain references to the Australian Standard 1926.1-2007 Part 1: Safety barriers for swimming pools (the standard) with references to the Building Code of Australia (BCA). The BCA in turn references the Australian Standard.

WANT TO KNOW MORE?

A copy of these documents can be found online free of charge at www.legislation.nsw.gov.au.

National Construction Code and the Building Code of Australia

The BCA is the principal document containing the construction standards for buildings and structures within Australia and specifically to NSW.

In NSW, the BCA requires swimming pool safety barriers to be installed in accordance with the technical construction standards of Australian Standard AS 1926.1-2012 and in the locations as determined by Australian Standard 1926.2 -2012. Where there is any discrepancy between these Standards and the Swimming Pools Act and Regulation, the Act and Regulation prevail.

WANT TO KNOW MORE?

A copy of these documents can be viewed free of charge at Council's offices during office hours.

Swimming Pool Inspection Program

Australian Standards 1926: Swimming Pool Safety

For private swimming pool safety barriers in NSW there are three possible Australian Standards which are used to assess compliance with the relevant legislation. The barrier must be designed, constructed, installed and maintained to the standards prescribed in the swimming pools legislation applicable at the time the pool was constructed or installed, unless it has since been substantially altered. In this case, the standard applicable at the time the barrier was altered applies and is as follows:

- Swimming Pools built, installed or fencing altered before 1 September 2008 are assessed against the Australian Standard AS1926 – 1986;
- Swimming Pools built, installed or fencing altered between 1 September 2008 and 30 April 2013 are assessed against the Australian Standard AS1926.1 – 2007; and
- Swimming Pools built, installed or fencing altered after 1 May 2013 are assessed against the Australian Standard AS1926.1 – 2012.

WANT TO KNOW MORE?

A copy of these documents can be viewed free of charge at Councils offices during office hours.

Conveyancing (Sale of Land) Regulation 2010

Beginning 29 April 2014 property owners on which a swimming pool is located will require a compliance certificate prior to sale of the property.

Amendments made to the *Conveyancing (Sale of Land) Regulation 2010* mean that from 1 September 2010 contracts for the sale of land must include a warning in relation to a land owner's obligations under the Swimming Pools Act 1992 which states that:

“An owner of a property on which a swimming pool is situated must ensure that the pool complies with the requirements of the Swimming Pools Act 1992. Penalties Apply. Before purchasing a property on which a swimming pool is situated, a purchaser is strongly advised to ensure that the swimming pool complies with the requirements of that Act.”

WANT TO KNOW MORE?

A copy of these document can be found online free of charge at www.legislation.nsw.gov.au.

Swimming Pool Inspection Program

Guideline 8 Cardiopulmonary Resuscitation

This Guideline is available at the Australian Resuscitation Council website at www.resus.org.au. By registering at the website visitors can access and print the guideline free of charge. Pool owners should consider subscribing as this will allow them to access an extensive range of related material.

WANT TO KNOW MORE?

A copy of this document can be found online free of charge at www.resus.org.au.

Residential Tenancies Act 2010

Beginning 29 April 2014 property owners on which a swimming pool is located will require a compliance certificate prior to lease of the property.

Section 52 of the Residential Tenancies Act provides that a landlord must comply with a landlord's statutory obligations relating to the health or safety of the residential premises. Section 52 includes the following note:

"Note. Such obligations include obligations relating to swimming pools under the Swimming Pools Act 1992."

This note makes it explicit that, in accordance with the *Swimming Pools Act*, a landlord must ensure that a swimming pool situated on a tenanted premises must be at all times surrounded by a child-resistant barrier that separates it from any residential building on the premises and from any public or private place adjoining the premises. The barrier must be designed, constructed, installed and maintained to the standards prescribed in the swimming pools legislation applicable at the time the pool was constructed or installed, unless it has been substantially altered. In this case, the standard applicable at the time the barrier was altered applies. Landlords should contact their local council in relation to the appropriate barrier standard that applies to their rental property pool.

Tenants are urged to notify landlords immediately of any damage they detect to any barrier surrounding a pool on a residential property that they are renting. Tenants are also reminded that section 64 of the Act enables tenants to carry out urgent repairs and be reimbursed up to \$1,000 for any fault or damage that causes the premises to be unsafe under certain circumstances, including if the landlord or agent cannot be contacted or does not carry out urgent repairs within a reasonable time.

WANT TO KNOW MORE?

A copy of these document can be found online free of charge at www.legislation.nsw.gov.au.

Swimming Pool Inspection Program

Public Health Act 2010 and Regulations

In NSW the maintenance, operation, and water quality of public swimming pools and spas are legislated by the *Public Health Act 2010* and *Regulations 2012*. The Legislation applies to all public swimming pools and spa which are not located at a private residence.

WANT TO KNOW MORE?

A copy of these documents can be found online free of charge at
www.legislation.nsw.gov.au.