

SECTION 1 Service Management  
 PART 1.4 Responsibility of Council

	<b>POLICY NO:</b>	1.4.14
	<b>POLICY TITLE:</b>	Mandatory Pool Inspection Program Policy
	<b>DATE ADOPTED:</b>	23/09/2013
	<b>RESOLUTION NO:</b>	349/2013
	<b>SUPERCEDES:</b>	
	<b>PROPOSED REVIEW DATE:</b>	23/09/2016 or new legislative changes

**POLICY**

To implement an inspection program that effectively meets Council’s obligation under the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*, increase pool safety awareness and reduce infant drowning and near drowning events within the Bourke Shire Local Government Area.

A comprehensive review of swimming pool legislation has been undertaken by the NSW Department of Local Government. The change in legislation has been brought about because of the rate of preventable drowning’s and near drowning’s 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.

**POOL INSPECTION PROGRAM**

**Definitions – for the purpose of this pool inspection program**

**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, means an occupation certificate issued under the *Environmental Planning and Assessment Act 1979* that is less than three (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 300millimeters, 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

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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, hotel or motel accommodation and serviced apartments

## PROCEDURES

### Inspection Program Requirements

- a) As of and from 29 April 2014, Council shall inspect all swimming pools associated with tourist and visitor accommodation and multi-occupancy development at a maximum of three (3) yearly intervals.
- b) As of and from 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.
- c) Council shall inspect any swimming pool within reasonable time that is subject of a customer, staff or owner request, to ensure the pool barrier is installed in accordance with *Swimming Pools Act* requirements
- 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.
- e) As of and from 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 drowning's or near drowning's.

The proactive inspection program will incorporate a risk based approach whereby unauthorised pools which come to Council's attention and authorised pools with outstanding final inspection will have high priority.

Council will also inspect pools on premises which are entered for other statutory purposes, at no additional cost, in view to determine compliance.

### 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 such cases Council may not charge a separate fee for issuing a certificate of compliance.

In addition, the *Swimming Pools Act* provides that Council may charge a fee for one reinspection. 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 one follow up inspection. Council will not charge additional fees for the conduct of subsequent inspections.

Council will not charge a fee for initial inspection where premises have been entered for other statutory purposes.

### **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 acknowledge 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 Pools Act* does provide mechanisms, such as Notices, Directions and penalty provisions which are 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 and owner self-assessment pool fence checklists.

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 level of community education and awareness.

### **VARIATION**

Council retains the right to review, vary or revoke this policy at any time.

The General Manager has the right to review or vary any related procedures.

Policy Adopted by Council: 23/09/2013