

COONAMBLE

SHIRE C@UNCIL

SWIMMING POOL BARRIER INSPECTION PROGRAM

Coonamble Shire Council Swimming Pool Barrier Inspection Program

1.0 Introduction

The NSW Division of Local Government has recognised swimming pool safety as an important issue and in doing so has made significant amendments to the *Swimming Pools Act 1992* (the Act). These amendments include inspection fees and penalties, pool registrations and certification and a requirement for local councils to develop an inspection program. The aim of these changes is to reduce drowning and near drowning instances of children under the age of five.

In response to the amendments to the Act, a draft Swimming Pool Barrier Inspection Program has been developed and is proposed to be placed on public exhibition. The Program that has been developed will be implemented in three phases based on legislative requirements, resourcing and perceived risk to the community. The purpose of the Coonamble Shire Council Swimming Pool Barrier Inspection Program is to develop an affordable and effective pool barrier safety program. The Program will also place an emphasis on providing relevant, up to date information to residents to assist in improving the safety of all swimming pools within the Local Government Area.

A significant portion of the Program is based around the inspection of premises with pools and to ensure the pool barrier complies with the relevant standard. Once a barrier complies with the standard a Certificate of Compliance – Swimming Pool Certificate will be issued to the property owner. The Certificate is valid for three years.

To assist financing the Program and ensuring required safety standards are achieved an array of fees and fines have been included in the recent amendment to the Act.

1.1 Certificate of Compliance – Swimming Pool

A Certificate is issued by an Authorised Officer of Council (or a Registered Certifier) in accordance with the Act. This Certificate is valid for three years and certifies that the swimming pool barrier complies with the requirements of the Act, Regulations and Standard at the time of inspection.

A Certificate ceases to be valid if a subsequent Direction is issued under the Act because the pool barrier is later found to be defective and requires rectification works.

2.0 Legislative Requirements for Pool Owners

The implementation of this Program to the Act will require swimming pool owners to:

- 1) Register their swimming pool on the NSW Swimming Pool Register within six (6) months from the date of adoption of this policy.
- 2) Ensure other development does not impact the effectiveness of their pool barrier.
- 3) Maintain an effective and compliant pool barrier.
- 4) Have a valid Certificate for all premises with a swimming pool on which there is tourist and visitor accommodation or more than two (2) dwellings.
- 5) Have a valid Certificate to sell or lease their property if there is a swimming pool situated on the property.

3.0 Program Implementation

The program will be implemented in three phases, based on legislative requirements, resourcing and perceived risk to the community. This staged process will ensure priority tasks are completed while also identifying future resource requirements.



3.1 Phase One – Registration, Compliance and Promotion

Phase One of the Program will be carried out following adoption for a period of six (6) months. In this phase, Program activities will focus on:

- Registration of Pools on behalf of residents;
- Certificates requested by residents;
- Investigation of complaints reported to Council of alleged defective pool barriers;
- Promotion of the Program to raise community awareness and education in relation to pool safety.

3.2 Phase Two – Mandatory Inspections

Phase Two of the Program will run in parallel to Phase One and will include mandatory inspections of pool barriers at premises on which there is tourist and visitor accommodation or more than two (2) dwellings and properties that are to be sold or leased. These inspections are required to be carried out within ten (10) days of the customer's application and the payment of fees.

3.3 Phase Three – High Risk Pool Inspections

Phase Three of the Program will include proactive inspections of high-risk private pools across the LGA. This phase will only be operational when mandatory requirements of Phases One and Two are being met. This phase will focus on pool barriers in high-risk areas:

- Premises identified as having an unauthorized pool
- Pools that have not been registered.

3.4 Ongoing Investigation of Complaints

As well as implementing Phases 1, 2 and 3, Council Officers will continue to respond to and investigate complaints received regarding swimming pools/swimming pool barriers.

3.5 Non-compliant Barriers

When an inspection has been undertaken and a swimming pool barrier is found to not comply with relevant legislative requirements the owner will be notified through the issuing of a Notice of Proposed Direction (Notice).

After a period of fifteen (15) days from the date of the Notice, a Direction to Comply (Direction) will be served. The Direction will require the owner to undertake measures to ensure that the swimming pool or premises comply with the requirements of the Act. Reasonable timeframes will be set out in the Direction.

In the event that Council deems a swimming pool to be of high risk and considers the safety of the community may be at risk if measures are not carried out as soon as possible. Council may issue a Direction in the first instance.

After the time period for compliance with the Direction has expired, a reinspection of the swimming pool will be carried out by Council to determine if compliance has been achieved, given the potential safety issues, any significant failures to comply may result in Council issuing a Penalty Notice or seeking legal enforcement of the Direction through an application to the Land and Environment Court.

4.0 Fees

The Act enables Council to charge inspection fees in relation to the Program. These fees are designed to offset the substantial costs associated with the Program.

4.1 Registration of Pools on Behalf of Residents (\$10 Fee)

If swimming pool owners are unable to register their pools on the NSW Office of Local Government's online swimming pool register Council can complete this on their behalf. This requires the swimming pool owner to attend the Customer Service Counter of Council's Administration Building, complete the required information form and pay a \$10 fee that has been prescribed in the Act.

4.2 Program Inspection Fees

The fees to be approved under the program are prescribed by the Act.

The fees outlined in Table 1 below relate to Certificates that have been requested by swimming pool owners as part of Phase 1 of the Program. These fees are payable before any inspections are carried out. In addition, the Certificate will not be released until all required rectification works have been carried out.

Table 1: Phase One – Registration, Compliance and Promotion	
Type of Service	Fee Amount
Certification and First Inspection	\$150
Subsequent Inspections	\$100

The fees outlined in Table 2 below relate to Phase 2 and Phase 3 inspections of properties. These properties include:

- Premises on which there is tourist and visitor accommodation or more than two (2) dwelling (Phase Two);
- Properties with swimming pools that are to be sold or leased (Phase 2);
- Proactive inspection of high-risk pool barriers (Phase 3);

Inspection fees will be paid by the swimming pool owner before any inspections are carried out.

Phase 3 inspection fees will be charged to the swimming pool owner once the final inspection has been carried out. Certificates will not be released until all inspection fees have been paid and all rectification works have been carried out.

Table 2: Phase Two – Mandatory Inspections and Phase Three – High Risk Pool Inspections	
Type of Service	Fee Amount
Certification and First Inspection	\$150
Subsequent Inspections	\$100

5.0 Fines

There are a range of fines that can be issued by Council for non-compliance with the requirements of the Act. Any income collected through this process will be directed towards the funding of the program.

5.1 Failure to Register Swimming Pool

Failing to register a swimming pool, is predicted to be a common breach of the Act within our community. Council can issue a \$220 fine to property owners who fail to register their swimming pool.

If Council becomes aware of a property owner who has failed to register their swimming pool or spa, the owner will be given 7 days written notice to register. Property owners who fail to register their swimming pool after the seven (7) day period may be issued with a \$220 fine. Council will then register the swimming pool or spa on their behalf.

5.2 Other

Table 3 outlines the range of fines that can be issued by Council for non-compliance with the requirements of the Act. Such penalties will not be issued as an initial response to minor offences and are only considered appropriate to issue for significant non-compliances and to ensure required safety upgrades are carried out in a timely manner.

Table 3: Fines		
Offence	Penalty	Maximum Court Penalty
Section 7 (1): Failure to comply with general requirements for outdoor pools associated with dwelling	\$550	50 penalty units = \$5,500
Section 12: Failure to comply with general requirements for outdoor pools associated with moveable dwelling and	\$550	50 penalty units = \$5,500

tourist and visitor accommodation		
Section 14: Failure to comply with general requirements for indoor pools	\$550	50 penalty units = \$5,500
Section 15 (1): Failure to maintain child resistant barrier	\$550	50 penalty units = \$5,500
Section 16: Failure of Occupier to keep access to pool securely closed	\$550	50 penalty units = \$5,500
Section 17 (1): Failure to display or maintain prescribed warning notice near pool	\$550	5 penalty units = \$550
Section 23 (3): Not comply with written direction – owner	\$550	50 penalty units = \$5,500