

# COUNCIL POLICY



## Cowra Shire Swimming Pool Inspection Program

Commencement Date	22 May 2023
Council Department	Environmental Services
Contact Officer	Director-Environmental Services
Revision Required	Every 4 years

### Policy Review

This policy shall be reviewed at four (4) yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.

### Revision History

Version	Council Meeting Date	Resolution No.	Responsible Officer
1	28 October 2013	258/2013	Director–Environmental Services
2	28 August 2017	229/2017	Director–Environmental Services
3	22 May 2023	84/2023	Director-Environmental Services

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## **1. Introduction**

The Swimming Pools Act 1992 requires Council to adopt a program for the inspection of swimming pools in the Cowra Shire. Council is then required to inspect swimming pools in accordance with this program.

## **2. Definitions**

Definitions relating to this policy are included in Appendix I.

## **3. Purpose**

The Swimming Pools Act 1992 requires Council to develop and adopt a program for the inspection of swimming pools in its Local Government Area. This policy is aimed at increasing pool safety awareness and reducing the risks associated with infant drowning and near drowning in swimming pools located within the Cowra Shire. The policy is aimed specifically at ensuring swimming pools comply with the requirements of Part 2 – Access to swimming pools, of the Swimming Pools Act 1992.

## **4. Objectives**

The objectives of this policy are to:

- a. Save and protect lives by preventing drowning in swimming pools;
- b. Inform pool owners of their responsibilities and obligations under the Swimming Pools Act 1992 and Swimming Pools Regulation 2018;
- c. Take appropriate steps to ensure that Council is notified of all swimming pools in the Cowra Shire; and
- d. Ensure Council is fulfilling its obligations under the Swimming Pools Act 1992.

## **5. Scope**

This policy applies to all swimming pools (including portable swimming pools), as defined in the Swimming Pools Act 1992, which are located within the Cowra Shire, but does not apply to swimming pools that are situated, or proposed to be constructed or installed, on any premises occupied by the Crown or by a public authority.

## **6. Legislative Requirements**

The Swimming Pools Act 1992 places a number of obligations on Council with respect to swimming pools. Council is required to:

- a. Take such steps as are appropriate to ensure that it is notified of the existence of all swimming pools to which the Swimming Pools Act 1992 applies that are within its area;
- b. Promote awareness within its area of the requirements of this Swimming Pools Act 1992 in relation to swimming pools; and
- c. Investigate complaints about breaches of the Swimming Pools Act 1992.

The Swimming Pools Act 1992 also requires Council to develop and adopt a program for the inspection of swimming pools in its area. Council is then required to inspect swimming pools in accordance with this program.

## **7. Inspection Program**

### **7.1 Type of Inspections**

Council will undertake the following inspection of swimming pools in the Cowra Shire:

- Council will undertake the inspection, at least once every 3 years, of any swimming pool situated on premises on which there is tourist and visitor accommodation or more than 2 dwellings. An inspection will not be required for a swimming pool in respect of which there is a valid certificate of compliance or a relevant occupation certificate;
- Council will undertake an inspection of a swimming pool located on a property prior to the sale or lease of that property where requested by the property owner(s) or by a person acting on behalf of a property owner(s). The inspection request must be made to Council using the appropriate application form. Council will carry out the inspection within 10 business days after receiving a request for the inspection.
- Council will undertake an inspection of a swimming pool at any time where requested by a property owner(s) or by a person acting on behalf of a property owner(s). The inspection request must be made to Council using the appropriate application form. Council will carry out the inspection within 10 business days after receiving a request for the inspection.
- Council will inspect any swimming pool which is the subject of a complaint. Council will, as far as is practicable, commence investigation of the complaint within 72 hours after it is received, as required by the Swimming Pools Act 1992.

### **7.2 Inspection Process**

#### **7.2.1 Application**

An application made to Council by a property owner(s) or person acting on behalf of a property owner(s) for an inspection of a swimming pool must be made using the appropriate application form. The application form must be fully complete in order for the application to be lodged with Council. The application must also be accompanied by the prescribed fee as nominated in Council's Revenue Policy adopted at the time of the application.

#### **7.2.2 Notice of Inspection**

The owner of a swimming pool which is situated on premises on which there is tourist and visitor accommodation or more than 2 dwellings will be provided in writing with a minimum of 10 days notice of a proposed inspection of the swimming pool by Council.

Where a complaint is received relating to a swimming pool, Council will take such steps as are reasonable to notify the owner(s) or persons acting on behalf of the owner(s) of the swimming pool about the complaint, and arrange to carry out an inspection of the swimming pool at a time that is convenient to the owner(s) and/or occupier(s) as required by the Swimming Pools Act 1992. Where Council is unable to notify the owner(s), Council will investigate the complaint in accordance with its powers under the Swimming Pools Act 1992.

### 7.2.3 Inspection

As part of the inspection program a swimming pool will be assessed in accordance with the requirements of Part 2 – Access to swimming pools, of the Swimming Pools Act 1992. The swimming pool will also need to be registered under Part 3A of the Swimming Pools Act 1992.

### 7.2.4 Compliance

Where an application for a Certificate of Compliance has been made to Council and a subsequent inspection has revealed that the swimming pool is registered and complies with Part 2 – Access to swimming pools of the Swimming Pools Act 1992, a Certificate of Compliance will be issued. The Certificate of Compliance is valid for a period of 3 years as stipulated in the Swimming Pools Act 1992.

### 7.2.5 Non-compliance

Where an inspection reveals non-compliance issues, the owner(s) of the property on which the swimming pool is located will be provided with a letter which details the specific issues which are required to be completed within a specified timeframe in order for the swimming pool to comply with Part 2 – Access to swimming pools, of the Swimming Pools Act 1992. Council will re-inspect the swimming pool at the completion of the specified timeframe to determine compliance.

### 7.2.6 Directions

In the event that the non-compliance issues are not completed within the given timeframe nominated in the initial letter, Council will issue the owner(s) of the land on which the swimming pool is located with a Notice of Intention to Serve a Direction to require compliance with Part 2 – Access to swimming pools, of the Swimming Pools Act 1992. This notice will be provided for a period of at least 14 days.

Where a swimming pool is found not to comply at the completion of the notice period, a Direction will be served under the Swimming Pools Act 1992. The Direction will require the swimming pool to comply with the current standards specified in the Swimming Pools Act 1992, regardless of the installation date of the swimming pool.

Council may serve a Direction without giving a Notice of Intention to Serve a Direction if it is considered that the safety of a person would be at risk if the requirements of the Direction were not carried out as soon as possible.

Council will re-inspect a swimming pool at the completion of the timeframe nominated in the Direction. Where an application for a Certificate of Compliance was submitted and the swimming pool is found to be registered and compliant with Part 2 – Access to swimming pools, of the Swimming Pools Act 1992, a Certificate of Compliance will be issued.

Where the requirements of a Direction are not complied with within the specified timeframe a Penalty Notice may be issued or legal action commenced to enforce the requirements of the Direction.

## **8. Education and Awareness**

In order to meet its obligations under the Swimming Pools Act 1992, Council will undertake an ongoing education and awareness campaign as part of this policy. The campaign will actively

promote the importance of swimming pool safety to residents in the Cowra Shire. This campaign will be delivered through community publications, media releases, web site information, access to self assessment checklists, interactions of Council officers with the public and targeted information to registered swimming pool owners.

## 9. Review

This Policy will be reviewed every 4 years by Council. As part of any review of this Policy the Cowra community will be consulted in accordance with the Community Engagement Strategy adopted by Council for the development and adoption of a policy for the inspection of swimming pools in the Cowra Shire.

## 10. Appendix I

### 10.1 Definitions

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

**council** means the council of an area within the meaning of the Local Government Act 1993.

**occupier of premises** includes any person who is for the time being in charge of the premises and, if there are 2 or more occupiers of the premises, includes any one of the occupiers.

**owner of premises** has the same meaning as “owner” has in relation to land in the Local Government Act 1993 and, if there are 2 or more owners of the premises, includes any one of the owners.

**public authority** means a public authority constituted by or under an Act, a local authority, a Government Department or a statutory body representing the Crown.

**register** means the Register of Swimming Pools under section 30A of the Swimming Pools Act 1992.

**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 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** has the same meaning as in the Cowra Local Environmental Plan 2012, being a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) Backpackers' accommodation;
- (b) Bed and breakfast accommodation;
- (c) Farm stay accommodation;
- (d) Hotel or motel accommodation;
- (e) Serviced apartments;

but does not include:

- (f) Camping grounds, or
- (g) Caravan parks, or
- (h) Eco-tourist facilities.