

SWIMMING POOL BARRIER INSPECTION PROGRAM



KIAMA
MUNICIPAL
COUNCIL

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SWIMMING POOL BARRIER INSPECTION PROGRAM

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1. BACKGROUND

In 1992 the Swimming Pools Act was introduced in NSW. This legislation required the installation of four-sided child resistant barriers to a prescribed standard to surround private pools in NSW.

A comprehensive review of the Act took place in 2008 and, as a result, the Act was amended in 2009. Despite these amendments, the NSW Division of Local Government has reported that the NSW Deputy State Coroner, the NSW Child Death Review Team and a range of pool safety advocacy organisations have consistently called for a further strengthening of the Act.

A further comprehensive review took place in 2012 and, following community consultation, the Swimming Pools Amendment Act 2012 commenced on 29 October 2012. The latest amendments are aimed at increasing safety of very young children around backyard swimming pools and reducing associated drowning and near drowning incidents. The amendments as reported by the Minister of Local Government will:

- Require that any property with a swimming pool must be inspected and registered as compliant before that property can be sold or leased (50 per cent of backyard pool drownings occur in rented premises).
- Establish a new offence for failing to register a swimming pool (maximum penalty \$2200).
- Require pool owners to self-register free-of-charge on a state wide, online register and certify to the best of their knowledge that their pool barrier complies with the regulations
- Require Councils to develop a locally appropriate and affordable inspection program in consultation with communities.
- Require Council to report each year on the number of pools inspected and the level of compliance of pool barriers.
- Require mandatory, periodic inspections of pools associated with tourist and visitor accommodation and unit blocks.
- Clarify that, where an existing swimming pool that is exempt from the Act's fencing requirements is fenced voluntarily, the new fencing must meet the Act's requirements for a compliant, four-sided barrier and the exemption will be removed.
- Pool owners will have 12 months to register and self-certify their pools and comply with current regulations

2. SWIMMING POOL - DEFINITION

The Swimming Pools Act 1992 defines swimming pool as 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 the Swimming Pools Act.

It is important to understand that this term not only includes backyard pools but also includes:

- pools that may be inside (or partially inside):
 - a residence
 - a townhouse
 - an apartment, motel, hotel etc
- pools that home owners put up (and take down) such as inflatable wading pools or prefabricated pools that do not require a licensed builder to install them
- a pool under a pergola or other type of enclosure
- spas that are not emptied after each use. This includes spas that are inside or partially inside a residence, may have a cover that is removed before use, may be part of a swimming pool, and may be surrounded by decking or under a pergola or other type of enclosure.

The Act 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.

3. CURRENT SWIMMING POOL SAFETY STANDARDS IN KIAMA MUNICIPALITY

The general requirement for child-resistant barriers on residential properties is for the pool to be separated by a complying barrier from the house, adjoining properties and public spaces at all times. Direct access from the house to the pool area is not permitted unless an exemption applies.

The requirements for child-resistant barriers on premises where there is a residential building vary according to when the pool was constructed and where the pool is located. These requirements are determined by the Swimming Pools Act and approvals granted by Council.

A residential building under the Swimming Pool Act means a building (such as a dwelling house, residential flat building or boarding-house) that is solely or principally used for residential purposes, and includes any structure (such as a garage or shed) that is ancillary to any such building, but does not include:

- (a) a building that merely forms part of a complex of buildings (such as a school or recreational centre) that is principally used for non-residential purposes, or
- (b) a moveable dwelling, or
- (c) tourist and visitor accommodation, or
- (d) a shed that is ancillary to a swimming pool and the primary purpose of which is to store equipment that is used in connection with the swimming pool (but not a shed of a kind prescribed by the regulations), or
- (e) a building or structure of a kind prescribed by the regulations.

New swimming pools require development consent before they are constructed. Further, an accredited certifier must inspect and certify that the pool is suitable for occupation before the pool is used. This is achieved through the issue of an occupation certificate. The pool must comply with the conditions of development consent, the Swimming Pools Act and the relevant Australian Standard for swimming pool safety.

Note: If the child resistant barrier is substantially altered or rebuilt then the child resistant barrier is to comply with the current Australian Standard.

4. APPROVED INSPECTION PROGRAM

The most effective way to prevent drowning or near-drowning is for children to be adequately supervised by a parent or other responsible adult. Properly installed and maintained barrier fencing also assists in reducing the incidence of drowning or near drowning in backyard pools.

The strategy identified in this program focuses on the construction and location of child resistant barriers surrounding pools and their operation.

The program requires that mandatory inspections of all swimming pool barriers be undertaken on a 3 year program basis. In addition inspections will be undertaken under the following circumstances:-

1. Where the pool barrier is the subject of a complaint, Council is required to commence investigation within 3 working days.
2. Where a request to inspect the pool barrier is made by the owner, whether required for pool registration or prior to sale or lease of a premises, an inspection is required to be carried out within 3 working days of a written request.
3. Follow up inspections where an initial inspection by Council's accredited certifiers reveals an inadequately fenced pool at the subject premises or neighbouring premises and direction has been given for rectification works.
4. Where the premises is subject to a Building Certificate application.
5. At three (3) year intervals for pools registered at residential premises.
6. Inspections referred to Council by private accredited certifiers who are unable to issue a compliance certificate.

5. IMPLEMENTING THE INSPECTION PROGRAM

There will need to be a period of transition before the new model comes into effect. This would allow pool owners to upgrade their pool fence if required and register online. As the cut off date for pool registration is 29 October 2013, it is considered appropriate to commence the inspection policy in January 2014.

6. WHERE TO GET FURTHER INFORMATION ON HOME SWIMMING POOL SAFETY

There are many organisations that provide advice on home swimming pool safety, particularly for children. These include:

- Kidsafe NSW - <http://www.kidsafensw.org>
- Swimming Pool & Spa Association of NSW - www.spasa.org.au
- St John Ambulance Australia - www.stjohn.org.au
- Royal Life Saving Society Australia - www.royallifesaving.com.au
- The Samuel Morris Foundation - <http://www.samuelmorrisfoundation.org.au/>
- Division of Local Government - <http://www.dlg.nsw.gov.au>