

Kyogle Council

SWIMMING POOL INSPECTION MANAGEMENT PLAN 2013



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Title

This Document shall be referred to as the Kyogle Council Swimming Pool Inspection Management Plan 2013.

Validity of Policy

This Management Plan is effective from DD MONTH 2013, and derives its validity from Council Resolution ??/?????

Purpose

To implement an inspection program that provides guidance for staff and the community and effectively meets Council's obligations under the *Swimming Pools Act and Regulation*.

To increase pool safety awareness and reduce the potential for infant drownings or near drowning events within the Kyogle Council local government area.

Scope

The requirements outlined in this Management Plan applies to the owner/s of premises within the Kyogle local government area on which a *swimming pool* is located. This includes all portable swimming pools installed under the *exempt development* provisions which meet the definitions as a *swimming pool*.

Definitions

Certificate of Compliance – in respect of swimming pools means a certificate issued under section 22D of the *Swimming Pools Act*.

Exempt development – in respect of swimming pools means portable swimming pools installed in accordance with the exempt provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note: Exempt swimming pools, which meet the definition of a swimming pool, are included in the following inspection program and pool isolation fencing must be provided in accordance with the requirements of the *Swimming Pools Act 1992* and referenced standards.

Inspection Period – for the purpose of this Management Plan, means a period of 30 days following the minimum notice of inspection advice, during which time an Authorised Officer of Council shall carry out an inspection unless a specific appointment date and time has been agreed to.

Multi-occupancy development – is a building, or buildings that is, or are, situated on premises that consist of more than two 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 3 years old and that authorises the use of the swimming pool.

Residential swimming pools – for the purpose of inclusion in the inspection program, relates to all swimming pools not located on premises containing multi-occupancy developments, or tourist and visitor accommodation.

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 the *Swimming Pools Act*.

Swimming Pools Act & Regulations – means the legislation in force in NSW which regulates swimming pools.

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.

Management Plan Statement

In accordance with Section 22B of the *Swimming Pools Act 1992* Council adopts the following program for the inspection of swimming pools.

Council shall inspect swimming pools in the following circumstances:

a) From 29 October 2013, Council shall:

- inspect every registered swimming pool at least once in every 3 years.

b) 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 5 working days of notification of a complaint that alleges a contravention of the Swimming Pools Act.
- d) Council shall inspect and take appropriate action where it is made aware of an unauthorised swimming pool or a swimming pool that is being used in contravention of conditions of development consent or other legislative requirements.

Council will also implement:

- Community education and awareness,
- Enforcement of the requirements of the *Swimming Pools Act* where appropriate and in accordance with Council's adopted enforcement policy,
- Issue of certificates of compliance; and
- Program reporting.

In times of peak workload the Executive Manager Planning and Environment, in consultation with the General Manager, may engage a contractor to ensure the requirements of the inspection program are met.

Process

Council must inspect all registered swimming pools in its area in accordance with the requirements of the Management Plan Statement and the *Swimming Pools Act*.

Failure to Register

- a) From 1 November 2013, on Council becoming aware that a swimming pool owner has failed to register their swimming pool, that owner shall be given 14 days written notice from Council to register their swimming pool prior to further action.
- b) Owners that have failed to register after 14 days notice shall be issued with a penalty infringement notice in accordance with clause 22 of the *Swimming Pool Regulation* (\$220 as at 28/06/2013) and Council will register the swimming pool.

Inspection Process

- a) Swimming pools shall be divided into groups based on their geographic location and inspected accordingly. Owners shall be given a minimum of 14 days' notice prior to the *inspection period*. The notice shall include a compliance checklist and an offer to arrange an appointment time for those pool owners who wish to be present during the inspection.
- b) The inspection shall be undertaken by an Authorised Officer of Council (Building Surveyors or Council appointed contractor), to determine compliance with Part 2 of the *Swimming Pools Act*. The owner shall receive an inspection report indicating whether the swimming pool barrier is satisfactory or unsatisfactory and an invoice for payment of the inspection fee as per the current Schedule of Fees and Charges.

- **Satisfactory** = Certificate of Compliance to be issued and recorded on State register and the premises placed on Council's database for re-inspection prior to the 3 year anniversary.
 - **Unsatisfactory** = Owner to receive report from officer indicating what works are required to be completed in order to achieve compliance and a timeframe to complete the works.
- c) If unsatisfactory, the swimming pool barrier shall be re-inspected at completion of the above timeframe. The owner shall receive an inspection report indicating whether the barrier is satisfactory or unsatisfactory, and an invoice for payment of the inspection fee as per the current schedule of fees and charges.
- **Satisfactory** = Certificate of Compliance to be issued and recorded on state register and the premises placed on Councils database for re-inspection prior to the 3 year anniversary.
 - **Unsatisfactory** = Council will issue a refusal notice for the certificate of compliance and notify owner that the swimming pool will be immediately re-entered back into the inspection program with inspection fees to commence at (b); and

The swimming pool owner will be issued with a notice of intention to serve a direction in accordance with *Section 23 of the Swimming Pools Act*, giving a minimum of 14 days' notice prior to the issue of a formal direction. If however, it is determined that the unsatisfactory condition is a threat to the safety of the occupants, adjoining neighbours or the public, an Emergency Order shall be issued directing the works to be undertaken to avoid the immediate safety risk and to bring the swimming pool into compliance.

- d) On completion of the minimum 14 days' notice Council will order in writing, served on the owner of the premises on which the swimming pool is situated, directing the owner to take, within such reasonable time as is specified in the direction, such measures as are so specified to ensure that the swimming pool or premises comply with the requirements of Part 2 of the *Swimming Pools Act*.
- e) The swimming pool barrier shall be re-inspected at completion of the timeframe as specified within the direction or prior to this at the request of the owner. The owner shall receive an inspection report indicating whether the barrier is satisfactory or unsatisfactory and an invoice for payment of the inspection fee as per the current Schedule of Fees and Charges.
- **Satisfactory** = Certificate of Compliance to be issued and recorded on State register and the premises placed on Council's database for re-inspection prior to the 3 year anniversary.
 - **Unsatisfactory** = Council will issue a Penalty Infringement Notice to the owner of the premises containing the swimming pool, for failure to comply with Council's direction and Part 2 of the *Swimming Pools Act*.

The swimming pool owner will be issued with a Notice of Intention to serve a direction in accordance with *Section 23 of the Swimming Pools Act*, giving a minimum of 14 days' notice prior to the issue of a formal direction. The process will then re-commence from (d).

Process for an Unauthorised Swimming Pool

Where, through the registration process, Council becomes aware that a Swimming Pool has been installed that required prior approval and did not obtain such approval, (ie it is not an *Exempt Development*), Council shall first provide the opportunity for the current landowner to follow a process to apply and obtain an "approval as built" through a Development Application process. If it is identified that the swimming pool has been installed within the past 12 months and by the current landowner, the opportunity shall be provided to the landowner to apply and obtain a Building Certificate in parallel with the inspection program.

The fees applicable for either the Development Application or Building Certificate shall be equal to the current Development Application for Complying Development Certificate fees as if the swimming pool was new.

The application for "approval as built" or Building Certificate, shall be accompanied by an identification survey for lots of 5ha or less. For properties greater than 5ha a survey sketch (site plan) shall be provided clearly identifying that the swimming pool is clear of property boundaries and not located on any Crown road reserves.

Engineering certification will also be required for all inground pools or for pools that do not have manufacturer's specifications.

Where a landowner does not choose to follow the appropriate path as outlined above, Council will instigate legal action as required to bring the matter into compliance, which may include Infringement Notices, Orders or action through the Land and Environment Court.

Documentation / Council And External References

- *Swimming Pools Act 1992 (NSW)*
- *Australian Standard – AS 1926 Swimming Pool Safety Part 1: Safety barriers for swimming pools*

Variation

Council reserves the right to review, vary or revoke this Plan.