



# Draft Swimming Pool Inspection Policy

## Policy Approval and Distribution

Approved by	Council Resolution
Responsible Officer	Manager of Development, Building and Compliance
Council Service Unit	Development, Building and Compliance
Next Review Date	Four years from commencement or as legislation is updated

## Version Control

Ref	Date	Description	Resolution Number
1.0	12/12/2023	<i>Presented to Council for public exhibition</i>	TBA

## Purpose

The purpose of this Program is to:

- To meet Councils obligations with the requirements of section 22B of the Swimming Pools Act 1992 as amended;
- Increase awareness of pool safety and reduce the incidence of drowning and near drowning events for young children in the Cootamundra Gundagai Regional Council (CGRC) Local Government Area;
- Ensure all private swimming pools are surrounded by a child resistant barrier which is designed, constructed and maintained to the prescribed standard;
- Ensure pools in tourist and visitor accommodation as well as multi-unit accommodation are maintained in a compliant manner;
- Ensure swimming pools are maintained and operated in accordance with the prescribed standards;
- Outline the process related to the monitoring and inspection of swimming pools in the CGRC Local Government Area; and
- Ensure corrective works are carried out where a non-compliant swimming pool is identified.

## Scope

This plan applies to:

- All swimming pools located within the CGRC local government area; and
- All proposed swimming pool installations within the CGRC local government area.
- All staff involved in applying the inspection program.

This plan is principally aimed at outlining Council's roles and responsibilities in the ongoing inspection and monitoring of public and private swimming pools against relevant legislation.

## Definitions

### CGRC

Cootamundra Gundagai Regional Council

### Tourist and visitor accommodation

Means 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.

### Swimming Pool

Means an excavation, structure or vessel—

1. that is capable of being filled with water to a depth greater than 300 millimetres, and
2. 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.

### Spa Pool

Includes any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

### Local authority:

- (a) in relation to premises that are situated within an area within the meaning of the [Local Government Act 1993](#)—the council of that area, or
- (b) in relation to premises that are situated within an area within the Western Division that is not within the area of a council within the meaning of the [Local Government Act 1993](#)—the person appointed under section 3A, or
- (c) in relation to premises situated on Lord Howe Island—the Lord Howe Island Board.

### Barrier:

A fence or a wall, and includes:

- a) Any gate or door set in the fence or wall, and
- b) Any other structure or thing declared by the regulations to be a barrier for the

purposes of the Swimming Pools Act.

**Certificate of compliance:**

Means a certificate issued under Section 22D of the Swimming Pools Act.

**Certificate of non-compliance:**

Means a certificate issued under clause 21 of the NSW Swimming Pools Regulations 2018.

**Direction:**

The local authority may, by order in writing served on the owner of any premises in or on which a swimming pool is situated, direct 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.

**Emergency Direction:**

A direction given where there is serious risk to safety. An emergency direction can require immediate action without service of a notice of intention beforehand.

**Notice of Intention:**

Before giving a direction, the local authority who gives the direction must give notice to the person to whom the direction is proposed to be given of the intention to give the direction.

**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 building:**

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 regulation.

## **Legislative Framework**

- Swimming Pools Act 1992
- Swimming Pools Regulation 2018
- Swimming Pools (Amendment) Act 2012
- Building Code of Australia
- Australian standard 1926.1
- Australian standard 1926.2

## Related CGRC Documents

- Cootamundra Gundagai Regional Council Fees Policy
- Cootamundra Gundagai Regional Council Complaints policy
- Cootamundra Gundagai Regional Council Enforcement Policy

## Review Period

This document is to be reviewed every 4 years, or as legislative requirements are updated to ensure that it remains relevant and meets legislative requirements.

## Policy Statement

### Introduction

Cootamundra Gundagai Regional Council are required to have in place and to implement a program of swimming pool inspections. The purpose of inspection is to assess against the prescribed standard whether a pool barrier is compliant and issue either a certificate of compliance or a certificate of non-compliance as appropriate.

### To what properties does this program apply?

The program applies to swimming pools, both indoor and outdoor, and spas that are situated or installed, on a premises on which a residential building, a moveable dwelling or tourist and visitor accommodation is located but does not apply to swimming pools and spas that are situated, or proposed to be constructed or installed, on any premises occupied by the crown or by a public authority.

### A pool barrier must be assessed.

- When a property with a pool is sold.
- Every three years if the property is rented.
- Every three years if the premises is either a tourist or visitor accommodation.
- Every three years if the property contains more than 2 dwellings.
- When requested by the owner of a swimming pool.
- When a complaint has been made concerning the compliance and safety of a swimming pool barrier.

### Process for investigating complaints about non-compliant barriers.

An authorised officer will firstly check whether a life-threatening circumstance exists, and if so, determine an immediate course of action. In the event the information from the complaint is not considered immediately life threatening, the matter will be prioritised accordingly by the authorised officer.

Complaints will be handled in accordance with Cootamundra Gundagai Regional Council's Enforcement Policy.

## Nominated Inspection Time Frames

Circumstance requiring inspection	Time frame for low risk	Time frame for high risk
Where the swimming pool or spa barrier is subject of a complaint	Within 14 days <sup>1</sup>	Within 0-72 hours <sup>2</sup>
Where a request has been received to inspect the pool barrier by the owner.		
Where a request has been received to inspect the pool barrier by the owner or an agent of the owner prior to the sale or lease of the premises.		
Where the premises is subject of a Building Certificate inspection, regardless if it relates to the swimming pool or spa.		
Mandatory 3 Yearly inspection of any swimming pool situated on premises on which there is tourist and visitor accommodation, rental property or more than 2 dwellings.		
Where Council has been informed that a swimming pool has been removed from the state register		

<sup>1</sup> If circumstances are deemed low risk council will aim to complete inspection within nominated time, however occasionally high workloads and/or staffing shortages may lead to extended waiting times.

<sup>2</sup> If circumstances are deemed very high or an extreme risk council may nominate a shorter period & prohibit use of the pool until compliant.

## 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.

[FEES AND CHARGES | Cootamundra Gundagai Regional Council \(nsw.gov.au\)](https://www.nsw.gov.au/fees-and-charges)

## Inspection Procedure

- 1) Application for an inspection received (where relevant) and associated fee paid.\*
- 2) Inspection time scheduled.
- 3) Photos and/or videos may be taken of the pool fence for records and reporting purposes.
- 4) Where it is identified there are non-compliant pool safety matters, Council will issue a Certificate of Non-Compliance and accompanying letter (notice) under cl. 22E of the Act detailing:
  - a) The date of the notice
  - b) The date on which the inspection took place
  - c) The address of the swimming pool to which the notice relates
  - d) The reasons why the registered certifier is not satisfied that the requirements for the issue of a certificate of compliance have been met and the steps that need to be taken in order to meet those requirements.
  - e) Whether the registered certifier is of the opinion that the swimming pool poses a significant risk to the public and the reasons for this decision.
- 5) Where a pool is non-compliant Council may provide the owner of the property with an opportunity to enter into voluntary undertakings setting out:-
  - Proposed rectification works;
  - Timeframe for completing the works; and

- Any interim measures proposed to be applied until such time as the works are completed.
- 6) If no voluntary undertaking is received, or the pool is assessed as being of significant risk, Council may issue a Notice of Intention to issue a Direction or Direction, without notice.
- \* In the case of investigations of non-compliant swimming pool barriers an application will not be required prior to an inspection being undertaken.
  - \* Council may contact owners of tourist and visitor pools as well as multi residential to arrange inspection as part of the program where certificates have/are approaching expiry.

