

ORANGE CITY COUNCIL

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SWIMMING POOL

BARRIER INSPECTION PROGRAM

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OBJECTIVES

To provide an inspection program of swimming pool barriers in the Orange Local Government Area, in accordance with the Swimming Pools Act 1992 (the Act).

APPLICABILITY

To all properties in the Orange Local Government Area with a pool, as defined by the Act.

GENERAL

The Swimming Pools Act 1992 requires pool registration and certification, as well as a requirement for all local Councils to develop an inspection program. Council has developed the Swimming Pool Barrier Inspection Program to provide an affordable and effective pool barrier safety program to inform the community and assist residents in improving the safety of all swimming pools in the area.

PROCEDURE

The Orange City Council Swimming Pool Barriers Inspection Program Procedure sets out how Council will undertake the inspection program.

RELATED POLICIES/DOCUMENTS

Swimming Pool Act 1992

Swimming Pool Barriers Inspection Program Procedure

Responsible Area – Development Services

REVISION					
	DATE	RESOLUTION		DATE	RESOLUTION
1	4 Feb 2014	14/38	2	Dec 2014	15/084
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SUMMARY OF AMENDMENTS

Amendment Date	Section/Reference and Amendment
December 2014	Formatting amendments. Updated to reflect legislated changes of date for compliance by pool owners

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SWIMMING POOL BARRIERS INSPECTION PROGRAM PROCEDURE

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1.0 Introduction

The New South Wales (NSW) Office 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 new inspection fees and penalties, pool registration 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 Swimming Pool Barrier Inspection Program (Program) has been developed. The Program will be implemented in three phases based on legislative requirements, resourcing and perceived risk to the community.

The purpose of the Orange City Council Swimming Pool Barrier Inspection Program (Program) is to develop, in consultation with the community, an affordable and effective pool barrier safety program in response to recent amendments to the *Swimming Pool Act 1992* (Act). The Program will also have 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 (LGA).

The Program will be implemented in three phases based on legislative requirements, resourcing and perceived risk to the community.

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 standard a Certificate of Compliance-Swimming Pool (Certificate) will be issued to the property owner. This Certificate is valid for three years.

To assist financing the Program and ensuring required safety standards are achieved an array of fees and Penalty Notices 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 Private Certifier) in accordance with the Act. This Certificate is valid for 3 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 changes to the Act require swimming pool owners to:

- 1 Register their swimming pool before 29 October 2013 on the NSW Office of Local Government Swimming Pool Register.
- 2 Ensure other development does not impact the effectiveness of their pool barrier.
- 3 Maintain an effective and compliant pool barrier.
- 4 After 29 April 2015 owners will need to have a valid Certificate for all tourist/visitor accommodation and multi- occupancy dwellings.
- 5 After 29 April 2015 owners will need to have a valid Certificate to sell or lease their property.

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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 between 29 October 2013 and 29 April 2015. In this phase Program activities will focus on:

- Registration of pools on behalf of residents
- Certificates requested by residents
- Investigate complaints reported to Council of alleged defective pool barriers
- Continue to promote community awareness and education in relation to pool safety

These activities will continue to be carried out after 29 April 2015 in conjunction with other auditing activities outlined in Phases Two and Three.

3.2 Phase Two - Mandatory Inspections

Phase Two of the Program will start 29 April 2015, and will include mandatory inspections of pool barriers at tourist/visitor accommodation and multi-occupancy dwellings and properties that are to be sold or leased. These inspections are required to be carried out within ten days of the customer's application and the payment of fees.

It is estimated that this phase will dominate the Program's resourcing due to the prescribed ten day time frame for these inspections and the high number of applications expected to be received after 29 April 2015.

All tourist/visitor accommodation and multi-occupancy dwellings will require a renewal of their Certificate every three years.

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3.3 Phase Three – High Risk Pool Inspections

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

- Premises identified as having an inflatable/portable pool
- Premises identified as having an unauthorised pool
- Pools that have not been inspected by Council in ten years or more

This phase of the program is expected to be the most challenging and maybe met with some resistance from property owners. Targeting these high risk areas is considered to be the most important in reducing the amount of drowning and near drowning events.

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. This will be an ongoing function and service that the Compliance Unit will deliver to the community.

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 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 and are set out in Council's Delivery/Operational Plan Fees and Charges.

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4.1 Registration of Pools on Behalf of Residents

If swimming pool owners are unable to register their pools on the NSW Office of Local Government's online swimming pool register Council can do it on their behalf.

This requires the swimming pool owner to attend the front counter of the Council Civic Centre, complete the required information form and pay a \$10 administration fee that has been prescribed in the Act.

4.2 Program Inspection Fees

Council's fees and charges are set out in the Delivery/Operational Plan. Fees are payable before any inspections are carried out. Any certificate sought will not be released until all required rectification works have been carried out.

5.0 Penalty Notices

There are a range of Penalty Notices that can be issued by Council for non-compliances 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

It is expected that failing to register a swimming pool may be a common breach of the Act. After October 29 2013, Council could issue a \$220 Penalty Notice 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 7 days may be issued with a \$220 Penalty Notice. Council will then register the swimming pool or spa on their behalf. It should be noted that in practice however, the issue of fines for not registering pools will be less of a priority than educating the pool owner/occupier to ensure that an appropriate fence has been installed and maintained.

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5.2 Other Penalties

The table below outlines the range of Penalty Notices that can be issued by Council for non-compliances 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 – Penalties		
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 movable dwelling and tourism and visitor accommodation	\$550	50 penalty units = \$5,500
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	\$110	50 penalty units = \$550