



## WEDDIN SHIRE SWIMMING POOL INSPECTION POLICY

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### 1. BACKGROUND

The Swimming Pools Amendment Act 2012 introduced a number of significant changes to the Swimming Pools Act 1992 (the Act) concerning the regulation of swimming pool safety in NSW.

The changes involved an increased role for Councils in ensuring that swimming pools in their area are compliant with the requirements of the Act, principally through a program of inspections and the issue of certificates of compliance. A new 'Register of Swimming Pools' was also introduced to be administered by the Director-General.

Under the changes, provisions requiring mandatory pool inspections by a Council were inserted into the Act (s22B). Councils are required to develop and adopt a program for the inspection of swimming pools in their area to ensure they are compliant with the Act.

Weddin Shire Council adopted a Policy for Swimming Pool Barrier Inspection on 17 October 2013 (Policy 10.6.1). The policy was reviewed and amended by Council on 15 June 2017. This policy supersedes the previously adopted policy.

### 2. PURPOSE

Clause 22B of the Swimming Pools Act 1992 ('the Act') 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 Weddin Shire.

The policy is aimed specifically at ensuring swimming pools comply with the requirements of Part 2 – Access to Swimming Pools, of the Act.

### 3. POLICY OBJECTIVES

The objectives of this policy are to:

- a) save and protect lives by preventing drowning in swimming pools;
- b) informing pool owners of their responsibilities and obligations under the Act and Swimming Pools Regulation 2008 (Regulations);
- c) take appropriate steps to ensure that Council is notified of all swimming pools in the Weddin Shire; and
- d) ensure Council is fulfilling its obligations under the Act.



#### 4. LEGISLATION

The Act 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 Act applies, that are within its local government area;
- b) promote awareness within its local government area of the requirements of the Act in relation to swimming pools; and
- c) investigate complaints about breaches of the Act.

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

For any pool situated on premises where there are more than 2 dwellings, or tourist or visitor accommodation, Council's program must make provision for the inspection of these pools at least once every three (3) years.

#### 5. APPLICATION/SCOPE

This policy applies to all swimming pools (including portable swimming pools), as defined in the Act, which are located within the Weddin local government area, 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. ROLES AND RESPONSIBILITIES

The following table outlines the roles and responsibilities of personnel. Noting that the position titles may change, however, the responsibilities remain the same.

<b>Roles</b>	<b>Responsibility</b>
The Elected Council	Review Policy as required.
General Manager	The General Manager is responsible for the overall control and implementation of the Policy.
Director of Infrastructure	The Director of Environmental Services is responsible for the implementation and review of the Policy.
General Public	The general public must act in accordance with this policy and abide by any determination made as a result of this policy.



## **7. SWIMMING POOL INSPECTION PROGRAM**

### **7.1 Type of Inspections**

Council will undertake the following inspections of swimming pools in the Weddin Shire:

- a) any swimming pool situated on premises on which there is tourist and visitor accommodation or more than 2 dwellings, at least once every three (3) years. 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;
- b) a swimming pool located on a property prior to the sale or lease of that property where an inspection has been 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 the application for inspection;
- c) any swimming pool to which this policy applies 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 the application for inspection;
- d) 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**

#### **Application to Council**

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 be accompanied by the prescribed fee as nominated in Council's Revenue Policy adopted at the time of lodgement of the application.

#### **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 in relation 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.

### **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 be required to be registered under Part 3A of the Swimming Pools Act 1992.

### **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.

### **Non-compliance**

Where an inspection reveals non-compliance issues, 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. Where the non-compliance issues relate to an application for a certificate of compliance, a certificate of non-compliance will be issued.

Council will re-inspect the swimming pool at the completion of the specified timeframe to ensure that any non-compliance issues are rectified. Where the this re-inspection relates to an application for a Certificate of Compliance, the applicant will be required to pay the prescribed re-inspection fee as nominated in Council's Revenue Policy.

### **Directions**

In the event that any non-compliance issues are not completed within the given timeframe nominated in the initial letter and certificate of non-compliance, or the non-compliances are considered to pose a significant risk to public safety, 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 provide the owners a period of at least 14 days within which to rectify the non-compliance issues or submit to Council written response as to why a Direction should not be issued.



Where a swimming pool is found not to comply with the requirements of the Swimming Pools Act 1992 at the completion of the notice period, Council will consider any response provided by the owners of the land and decide whether to serve a Direction under the Swimming Pools Act 1992. Any Direction served 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 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 Weddin Shire.

The education and awareness campaign will be delivered through the following –

- community publications;
- media releases;
- website information;
- Social media;
- access to self-assessment checklists for swimming pool owners;
- interaction of Council officers with the public: and
- targeted information to registered swimming pool owners.



## 9. DEFINITIONS

Key Terms	Meaning
Act	Swimming Pools Act 1992
certificate of compliance	A certificate issued under section 22D of the Swimming Pools Act 1992.
Council	Weddin Shire Council
occupier of premises	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	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.
Regulations	Swimming Pools Regulation 2018
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.
spa pool	Includes any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like
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 Swimming Pools Regulation 2018 not to be a swimming pool for the purposes of the Swimming Pool Act.
tourist and visitor accommodation	Has the same meaning as in the Weddin Local Environmental Plan 2011, 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 a camping grounds, a caravan parks, or eco-tourist facilities.



<b>Title: Weddin Shire Swimming Pool Inspection Policy</b>			
<b>Department: Environmental Services</b>			
<b>Version</b>	<b>Resolution #</b>	<b>Date</b>	<b>Author</b>
10.6.1		17 October 2013	Director Environmental Services
10.6.2		15 June 2017	Director Environmental Services
10.6.3	236/22	20 September 2022	Director Environmental Services
<p>This policy may be amended or revoked at any time and must be reviewed every three (3) years since its adoption (or latest amendment). The Director Environmental Services will be responsible for the review of this policy. Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.</p>			
<b>Review Date: September 2025</b>			
<b>Amendments in the release</b>			
<b>Amendment History</b>		<b>Date</b>	<b>Detail</b>
	<b>Annexure Attached:</b> Nil		
	<b>Noreen Vu</b> <b>General Manager</b>		