



**Bogan Shire Council**  
**Swimming Pool Inspection Program**

DRAFT

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## **Purpose of the Program**

The *Swimming Pools Act 1992*, Section 22B requires Council to develop and implement a swimming pool inspection program that increases pool safety awareness, and reduces infant drowning and near drowning events by ensuring compliance with the requirements of Part 2 of the Act - access to swimming pools – of the *Swimming Pools Act 1992*.

The Swimming Pool Inspection Program will assist:

- In ensuring all swimming pools in the Bogan Shire comply with the relevant Acts, Regulations and Australian Standards for swimming pools.
- the community with the responsibilities set out by the NSW Governments Swimming Pool Register
- meeting Councils obligations under the *Swimming Pools Act 1992*, and
- engagement with the community in regards to swimming pool safety.

## **Relevant Legislation and Standards**

The legislation, regulation and standards that apply to the swimming pool inspection program include:

- *Swimming Pools Act 1992*
- *Swimming Pools Regulations 2008*
- *Swimming Pools Amendment Act 2012*
- *Swimming Pools Amendment (Consequential Amendments) Regulation 2013*
- Building Code of Australia
- Australian standards AS 1926.1
- Australian standards AS 1926.2

## **Relevant Definitions**

- **Certificate of Compliance**- in respect of swimming pools means a certificate issued under section 22D of the *Swimming Pools Act*.
- **Multi-occupancy Development** – a building or buildings that is, or are, situated on premises that consists of two or more dwellings.
- **Relevant Occupation Certificate** – in respect of a swimming pool, which 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.

- **Swimming Pool**- means an excavation, structure or vessel:
  - that is capable of being filled with water to a depth greater than 300 mm, and
  - 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 regulations not to be a swimming pool for the purposes of this Act.
- **Tourist and Visitor Accommodation**- means a building or place that provides temporary or short-term accommodation on a commercial basis and includes backpackers accommodation, bed and breakfast accommodation, farm stay accommodation and serviced apartments.

## **Registration of Pools**

All pools in NSW are required to be registered on an on-line register by their owner.

To register a pool, owners are to self-assess that their pool complies with the applicable standard. The standard to be applied is based on information provided by the person registering the pool or spa.

The registration process can be completed by the owner via the NSW swimming pool register website ([www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au)). It is free to register your pool via this website. Or, under the *Swimming Pools Regulation 2008* (Section 18D), Council can complete the registration for the owner after they have filled out Councils registration form.

It is an offence under the *Swimming Pools Act 1992 (Section 30B)* to have an unregistered swimming pool.

## **The Importance of Pool Safety**

Swimming pools offer a social amenity that is of great benefit to those who have use and access to it. With this however goes an obligation outlined in legislation to maintain the pool in a safe manner.

The regulatory regime of pools on private property has been the subject of ongoing legislative review due to the tragic infant and toddler injury and death in swimming pools.

Children aged 4 years of age and under are the most vulnerable. They are dependent on their parents or carers for their safety. The personal and social cost associated with the death of a child is enormous and cannot be adequately described. The death of a young child in circumstances that could have been prevented is a tragedy for all.

### **What is a Certificate of Compliance?**

A Certificate of Compliance is issued once a pool has been inspected against the relevant pool safety requirements and is deemed to satisfy those requirements. The certificate is valid for three years. A pool may be inspected more frequently than three years if:

- a complaint has been received with respect to pool safety, or
- there is good reason to suspect the pool no longer complies with the pool safety requirements, or
- at the request of the owner/s.

If an inspection is undertaken and Council is satisfied that the requirements for the issue of a certificate of compliance have not been met, Council will issue a certificate of non-compliance to the owner.

### **Inspection Program**

In accordance with Section 22B of the Act, Council has developed this program to maintain compliance with the relevant Acts, Regulations and Australian Standards for swimming pools.

### **Tourist/Visitor Accommodation and Multi-Unit Developments**

All tourist and visitor accommodation buildings and multi-unit premises (i.e. more than two dwellings) within the Bogan Shire that have a swimming pool installed will be inspected once every three years or if a complaint is received. These buildings include motel/hotel accommodation, serviced apartments, boarding and guesthouses, bed and breakfast, backpacker accommodation and the like.

## **Properties for Sale or Rent/Lease**

From 29 April 2016 all properties with a pool being sold or leased must have a valid swimming pool certificate of compliance or a certificate of non-compliance or a relevant occupation certificate before it can be sold or leased.

Where a property with a swimming pool is being sold or leased, and valid occupation certificate does not exist, the property owner/s must lodge a certificate of compliance application with Council to instigate an inspection.

## **All Other Swimming Pools**

All other swimming pools in the local government will be inspected on a rotational five (5) year basis.

Pools where a valid certificate of compliance exists will not be subjected to an inspection until such time its validity has expired.

Council will however inspect any swimming pool where it is been made aware of possible contravention's of the *Swimming Pools Act* and/or is of the opinion that it poses a significant risk to public safety.

## **Procedure**

Where Council is required to complete inspections under this program, the following procedure will be followed:

- The pool owner will be notified by Council in writing that an inspection will be taking place at the property, a minimum of fourteen days prior the inspection. The letter will include the time and date the inspection will occur and the proposed fee of \$150.00 that will need to be paid to Council. If a second inspection is required, a fee of \$100.00 is required to be paid to Council.
- Councils authorised officers will than conduct the inspection at the property on the allotted date and time set. The owner does not have to be present but is preferred.
- Council will notify the owner of the property of the results of the inspection. The results to the inspection are as follows:

- Issue of a Compliance Certificate - if the pool is found to be compliant with all relevant Acts, Regulations and Australian Standards, Council will then issue a Compliance Certificate in accordance with Section 22D of the *Swimming Pools Act 1992*.
- Notice - if works are required to be undertaken to receive a Compliance Certificate, a notice will be sent to the owner under Section 22E of the *Swimming Pools Act 1992*, with a list of requirements to be completed before a second inspection can occur.

## **Fees**

The *Swimming Pool Act* provides that Council may charge a fee the inspection conducted by an authorised officer, being a fee that is no greater than the maximum fee prescribed by the *Swimming Pool Regulation*. At the time of gazettal of the *Swimming Pool Regulation* (April 2013) the maximum initial inspection of \$150 is payable and a second inspection fee of \$100 is payable. No fee may be charged for further inspection.

Council will charge a fee of \$150 for an initial inspection (which includes the issue of a Certificate of Compliance for complying pool fences) and \$100 for one follow-up inspection.