



POLICY STATEMENT

SWIMMING POOL INSPECTION PROGRAM POLICY

POLICY ADOPTED: 22 October 2013

Policy Objective:

The purpose of this policy is to implement an inspection program that effectively meets Council's obligations under the *Swimming Pools (Amendment) Act 2012*, by increasing safety and awareness and therefore reducing the potential for infant drownings in backyard swimming pools within the Bland Shire.

Policy Statement:

Due to the rate of preventable drowning and near drowning incidents in privately owned swimming pools in NSW, a comprehensive review of swimming pool legislation has been undertaken by the NSW Department of Local Government.

The resulting *Swimming Pools (Amendment) Act 2012*, requires NSW Councils to develop and implement a swimming pool barrier inspection program, in consultation with the community, for privately owned pools and those pools where visitor and tourist accommodation is provided.

Definitions:

Certificate of Compliance – in respect of swimming pools means a certificate issued under section 22D of the *Swimming Pools Act 1992*.

Multi-occupancy development – a building, or buildings that is, or are, situated on premises that consist of two or more 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.

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 this Act.

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 and serviced apartments.

Note: *As a result of community engagement and consultation this policy is also applicable to swimming pools within Caravan Parks.*

The Inspection Program

In accordance with Section 22B of the *Swimming Pools Act 1992* the following program for swimming pools will be implemented within the Bland Shire:

- a) From 29 April 2013 until 29 October 2013 all swimming pool owners must register their pool on the NSW Swimming Pool Register,
- b) From 29 October 2013, Council shall inspect every residential swimming pool at least once in the first 2 years,
- c) From 29 April 2014, Council shall inspect every swimming pool associated with tourist and visitor accommodation, multi-occupancy developments and caravan parks at least once every 2 years,
- d) From 29 April 2014, Council shall inspect within a reasonable time, any property which has a swimming pool, prior to its sale or lease, on the request of the property owner or their authorised agent,
- e) Council shall inspect any swimming pool within 3 working days of notification of a complaint that alleges a contravention of the Swimming Pools Act,
- f) Council shall inspect and take appropriate action within 10 days of being made aware of an unauthorised swimming pool that is being used in contravention of conditions of development consent or other legislative requirements.

Council will also implement:

- Program reporting.
- Community education and awareness through publications, media releases and provision of information on Council's web site.

Failure to Register

From 1 November 2013, should Council become 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 being taken.

Owners who then fail to register within this 14 day period, shall be issued with a penalty infringement notice in accordance with clause 22 of the *Swimming Pools Regulation 2008* (\$220 as at 28/06/2013), and Council will register the swimming pool.

The Inspection Process

Swimming pools shall be divided into areas – Barmedman, Ungarie, Weethalle, West Wyalong, rural areas.

Initial Inspection

Inspections shall be undertaken by Council's authorised officers or an appointed contractor of Council's choice, to determine compliance with Part 2 of the *Swimming Pools Act 1992*. The owner will be provided with an inspection letter/report indicating whether the pool barrier is satisfactory or unsatisfactory.

- **Satisfactory** – Certificate of Compliance to be issued and recorded on State register and the premises placed on Council's database for reinspection in 3 years.
- **Unsatisfactory** – Owner to receive a letter/report from Council indicating what works are required to be completed in order to achieve compliance and a timeframe (14 days) will be given in which to complete the works.

First Re-inspection

When an unsatisfactory result occurs, a re-inspection will be undertaken at the completion of the time period given in the initial letter/report. The owner will then receive another inspection notification indicating if the barrier is satisfactory or unsatisfactory.

- **Satisfactory** – Certificate of Compliance to be issued and recorded on State register and the premises placed on Council's database for re-inspection in 3 years.
- **Unsatisfactory** – The swimming pool owner will be issued with a Notice of Intention to Serve an Order in accordance with Section 23 of the *Swimming Pools Act 1992*, giving the owner a further 14 days in which to complete the works.

Second Re-inspection

On completion of this 14 day period an authorised Council officer will re-inspect the swimming pool. A further letter/report will be issued indicating if the barrier is satisfactory or unsatisfactory.

- **Satisfactory** – Certificate of Compliance to be issued and recorded on State register and the premises place on Council's database for re-inspection in 3 years.
- **Unsatisfactory** – Council will issue an Order, in writing, which will be served on the owner of the premises on which the swimming pool is situated. The owner is then required to take measures, as specified in this Order, to ensure the swimming pool barrier complies with the requirements of Part 2 of the *Swimming Pools Act 1992*. A timeframe will be given in which to complete the works and this will be stated in the Order.

Third Re-inspection

The swimming pool barrier shall be re-inspected at completion of the timeframe as specified within the abovementioned Order, or prior to this at the request of the owner. The owner shall receive an inspection letter/report indicating whether the barrier is satisfactory or unsatisfactory.

Should the swimming pool barrier remain **unsatisfactory** the owner will be issued with an on-the-spot Penalty Infringement Notice, for failure to comply with Council's direction.

A Notice of Intention to serve an Order in accordance with Section 23 of the *Swimming Pools Act 1992*, will again be issued (as outlined above), and the process will re-commence from "Second Re-inspection", until a satisfactory report is obtained.

Fees:

The *Swimming Pools Act 1992* provides that Council may charge a fee for an inspection conducted by an authorised officer, being a fee that is not greater than the maximum fee prescribed by the *Swimming Pools Regulation 2008*. However, Council cannot charge a separate fee for issuing a Compliance Certificate.

The *Swimming Pools Act 1992* allows Council to charge a fee for one reinspection, in addition to the above.

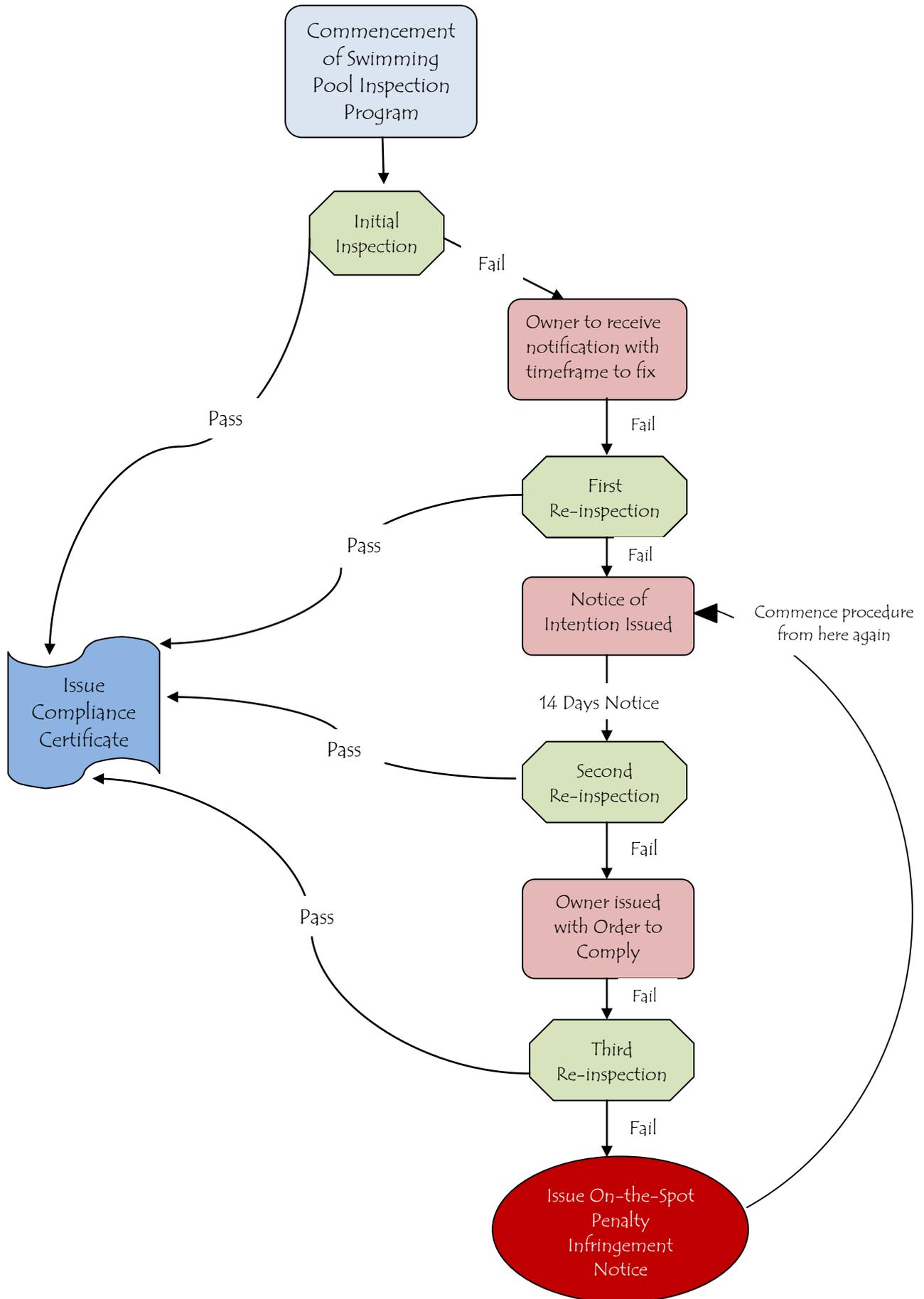
The fee for a swimming pool inspection can be found in Council's Revenue Policy.

Council will charge a fee for the initial swimming pool inspection (which will include a Certificate of Compliance if the inspection is satisfactory) and an additional fee for one follow up inspection should the initial inspection return an unsatisfactory result.

An invoice will be issued to the swimming pool owner after each inspection has been carried out. Failure to pay the fee/s will see Council not issue the Certificate of Compliance.

Note: It is an offence under the *Swimming Pools Act 1992* to not hold a valid Certificate of Compliance. This infringement may result in an on-the-spot Penalty Notice of \$220.

Inspection Program Flow Chart



References:

Swimming Pool Act 1992

Swimming Pool Regulations 2008

Swimming Pool (Amendment) Act 2012

Authorisation:

Status	Committee	N/A	
	Manex	N/A	
Owner	Director Corporate, Community and Development Services		
EDRMS Doc. ID	396239		
Superceded Policy			
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
22 October 2013	0		

Related Council Policy / Procedure