

Swimming Pool Safety Policy

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Policy owner:	Manager Development Assessment and Building Certification
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Part 1: Introduction

City of Wagga Wagga is concerned about the dangers presented to young children, particularly those under the age of five years, by domestic swimming pools. Statistics from the Royal Lifesaving society indicate that 70% of child drownings occur in swimming pools, 80% of which occur when the child has direct access to the pool after leaving the bounds of the associated dwelling.

Wagga Wagga City Council requires that all new swimming pools are separated from buildings on site by a barrier complying with AS 1926.1-2012 as required by the *Swimming Pools Act 1992* and *Swimming Pools (Amendment) Act 2012*. It is apparent that many owners are unaware of the requirements, choose not to comply with the requirements, or are oblivious to the potential for tragedy or legal ramifications resulting from non-compliance.

There is no substitute for constant adult supervision of children in and around swimming pools to prevent drowning and other accidents. Swimming pool owners should be familiar with first aid and resuscitation techniques.

In 2012, a comprehensive review of the Swimming Pools Act 1992 was finalised. This review identified a number of amendments designed to enhance the safety of children under the age of five years around private swimming pools in NSW.

The Swimming Pools Amendment Act 2012 commenced on 29 October 2012 and makes a number of amendments to the Swimming Pools Act 1992. This policy captures the impact of these legislative amendments for pool owners and ensures that council meets all of its required legislative requirements.

Purpose

- To save and protect lives by preventing drowning in backyard pools.
- To inform pool owners of their responsibilities and obligations under the *Swimming Pools Act 1992* and *Swimming Pools (Amendment) Act 2012*.

Scope

This Policy applies to swimming pools (both outdoor and indoor) that are situated, or proposed to be constructed or installed, on premises on which a residential building, a moveable dwelling or tourist and visitor accommodation is located, 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.

Responsibilities

Wagga Wagga City Council's is responsible for:

- promoting awareness within the Local Government Area of the requirements applying to swimming pools as provided for under the Swimming Pool Act and Regulations; and
- establishing and implementing a program for the inspection of swimming pools in within the area.

Policy Provisions

Part 2: Installation of New Pools

2.1 Approval

General

- a. Prior to constructing or installing a pool, an applicant must obtain either:
 - A development consent and associated construction certificate; or
 - A complying development certificate.
- b. A complying development certificate can be issued where the proposed pool complies with the criteria listed. An application submission check list for determining the type of application required may be obtained from Council's Customer Service Centre.
- c. A BASIX Certificate must be provided with any application for the installation of any swimming pool where the capacity is 40,000 litres or more. The details provided on this BASIX Certificate are to be reflected on the plans. These details are to be carried out for the pool. For example: BASIX Certificate reflects that the pool is to have a pool cover; this is then checked prior to Council issuing a Final Occupation Certificate on the pool.
- d. Applications for swimming pools must be accompanied by:
 - A site plan showing measurements of where the location of the pool is in relation to all other buildings and all boundaries on the property;
 - A plan clearly showing the location and height of the required swimming pool safety barrier and gate, with height complying with AS 1926.1- 2012;
 - Location of proposed swimming pool pump and discharge point for waste water;
 - A section through the pool indicating the height of any coping or decking in relation to the; ground level or dividing fences to ascertain any privacy issues that may exist. The section should also indicate the effects of excavation work on adjacent structures due to the line of influence;
 - All plans are to be legible and to a suitable scale e.g. 1:100;
 - Statement of Environmental Effects; and
 - Any other relevant requirements listed in Minor Residential development / or Complying Development Checklist.

Refer to Councils Development Application and Construction Certificate Application Submission Guides for further submission requirements.

2.2 Structural

- a. A pool construction site or prefabricated pool shall comply with the relevant Australian Standard; including:
 - AS 2783 – 1992 – Use of concrete for swimming pools;
 - AS/NZS 1838 – 1994 Swimming Pools – pre-moulded fibre-reinforced plastics – design and fabrication; and
 - AS/NZS 1839-1994 Swimming Pools – pre-moulded fibre-reinforced plastics – installations.
- b. Where a pool is constructed of reinforced concrete it shall be finished with a suitable surface and shall be designed & certified by a practising structural engineer.

Part 3 – Existing Swimming Pool Fencing Requirements

A child proof barrier surrounding the pool must separate the pool from any private or public place but is not required to separate the pool from the house on the property. Windows and doors from the house accessing the pool area must be treated in accordance with the provisions of the *Swimming Pools Act 1992* and *Swimming Pools (Amendment) Act 2012*, the regulations under the Act and AS 1926.1 – 2012.

Part 4 – Private Swimming Pool Requirements

4.1 Water Quality

- a. The pool must be provided with filtration equipment that will maintain the water in a clean and hygienic condition and compliant with the installation requirements of AS 1926.3-2003 Water recirculation systems.
- b. Water Quality for spa pools shall be in accordance with AS 2610.2-1993 Spa Pools – water quality.
- c. Water quality for swimming pools must be in accordance with AS 3633 – 1989 Private swimming pools – water quality.

4.2 Backwash/ Used Water Disposal

All backwash used water or waste pool water must be discharged to the Wagga Wagga Council sewer. On larger allotments, where sewer is not available, these waste waters must be disposed of on-site in accordance with the relevant provisions of Australian Standard 3500, provided they do not enter a watercourse nor adjoining property.

Note: A Section 68 Activity Approval is required for all sewerage works.

4.3 Position of New Pools

- a. A pool is to be located a minimum of 1 metre from its vertical water line to a side and/or rear boundary (this must be a clear space).
- b. A minimum 1.5 metre clear space must be provided from the vertical water line to at least one fence line around the pool.

4.4 Exemptions

- a. An application may be made by the owner of the land under Section 22 of the *Swimming Pools Act 1992* and *Swimming Pools (Amendment) Act 2012* for an exemption from complying with the requirements of the Act if:
 - It is impractical or unreasonable for the swimming pool to comply with those requirements; or
 - An alternative provision, no less effective than those requirements, exists for restricting access to the pool.
- b. Any such application must be in writing and accompanied by the prescribed fee (refer to clause 13 of the Regulations).

Note:

1. Exemption sought to allow access to the pool to be gained via a doorway *will not* generally be considered.
2. The automatic exemptions for new pools on very small, large and water front properties ceased on 1 July 2010.

Part 5 – Pool Decks and Privacy Screens

5.1 Required Approvals

Prior to constructing any deck or privacy screen (other than those deemed “exempt”) an applicant shall ensure that a development approval and a Construction Certificate approval or a Complying Development Certificate approval is obtained. Approval for such may be obtained with the application for the pool installation.

5.2 Design Requirements

Privacy screening should generally be designed with the following features:

- It may be trellis, fence or panel. Dividing fences may be used with agreement of the adjoining neighbour;
- It should be behind the building line; and
- It must be structurally adequate.

Note: No part of any privacy screen shall be constructed within the 900mm non-climbable zone of any child resistant barrier.

Part 6 – General Information

6.1 Aboveground Pools

Under Part 3.9.3 of the Building Code of Australia 2016 Volume Two '*Swimming Pool Access*' applies in New South Wales to the technical construction requirements for barriers to restrict access to swimming pools, subject to the walls of out-of-ground pools and above ground pools, including inflatable pools, not being considered to be effective barriers.

Note: The Swimming Pools Act 1992 and the Swimming Pools Regulation 2008, applicable to swimming pools with a depth of water of more than 300 mm, regulate the circumstances in which a barrier is required and prevail in the case of any inconsistency.

6.2 Spa Pools

Spa pools may either be surrounded by a child resistant barrier, or covered or secured by a child-safe structure (such as a lockable door, lid, grille or mesh) that is fastened to the spa by a child resistant device/lock at all times when the spa is not in use.

6.3 Indoor Swimming Pools

The access doorways to indoor pools must be kept securely closed at all times and are to be fitted with approved closers and latching devices, as outlined in the *Swimming Pools Act 1992*, the Regulations under the Act, and AS 1926.1-2012.

Part 7 – General Safety, Health and Amenity Requirements

7.1 Safety Requirements

- a. A child resistant barrier (fence), complying with the requirements of the *Swimming Pools Act 1992*, *Swimming Pools (Amendment) Act 2012* and AS 1926.1-2012 must be installed and maintained whilst the pool remains on site.
- b. During construction, and prior to the erection of the child resistant barrier, the pool must be surrounded by a temporary fence to the dimensions provided in AS 1926.1-2012.
- c. All gates to the child resistant barrier (fence) shall be adequately maintained. The gate must latch from any open position without the need for manual assistance. The gates must be kept closed at all times. The self-closing mechanism must be located a minimum of 1.5m AGL (above ground level). The self-closing mechanism must be located a minimum of 1.5 m AGL (above ground level). However where the release to either the latching device or the latch is located at a height less than 1500 mm AGL, the latch and its release shall be so shielded that no opening greater than 10 mm occurs within an area bounded by either an effective radius of 450 mm from the operating parts of the latch; and the top of the fence, if this intersects the area described above.
- d. Adequate means of egress from the pool must be provided (ladder/steps).
- e. A resuscitation sign depicting resuscitation methods must be displayed and maintained in a prominent position adjacent to the pool. Such posters can be obtained from Council, the Royal Life Saving Society or pool installation companies.
- f. Any pool chemicals shall be stored and handled in accordance with manufacturer's instructions.

Note: Should any inconsistency occur between this guideline and AS 1926.1, the Australian Standard shall prevail.

7.2 Noise Control

- a. Any potential noise generating equipment must be located or treated so as to not cause noise nuisance for neighbours.

Part 8 – Fencing of New Swimming Pools

8.1 Fencing must comply with AS 1926.1-2012

- a. Fencing and gates must be designed and installed so that at any point along their length the fence will present an effective barrier to young children. Again, this applies to above ground pools and inflatable pools;
- b. Gates incorporated in a child proof barrier must be fitted with a device to return the gate to a closed position and operate a latch without use of manual force from any position. The gate is to only open outwards (away from the pool);
- c. Each child resistant barrier (fence) must be approved by Councils Building Surveyor or a Private Certifier prior to the use of the pool;
- d. Boundary fences may be used as effective child resistant barriers provided they comply with AS 1926.1-2012. In essence the boundary fence must be a minimum 1800mm high with a non-climbable zone on the inside, top of the fence;
- e. Windows may open to a pool area provided:
 - The bottom of the lowest opening panel of the window must when measured in a closed position, be a minimum of 1.2m above finished floor level; or
 - The window is fitted with a permanently fitted security screen preventing access from the window; or
 - The window is installed so that it is only able to be opened to a maximum of 100mm.
- f. The rails to any fence intersecting with the child resistant barrier must be shielded from the bottom of that fence to a height of 1200mm, for a distance of 1200mm on the outside of the pool area and 300mm inside the pool area to maintain the non-climbable zone.

Part 9 – Additional Information

State Environmental Planning Policy (Infrastructure) 2007

45 Determination of development applications—other development

- (1) This clause applies to a development application (or an application for modification of consent) for development comprising or involving any of the following:
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower;
 - (b) development carried out:
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists); or
 - (ii) immediately adjacent to an electricity substation; or

- (iii) within 5m of an exposed overhead electricity power line.
 - (c) installation of a swimming pool any part of which is:
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level; or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool;
 - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of consent) for development to which this clause applies, the consent authority must:
- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks; and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

Part 10 – Swimming Pool State – Wide Registration Requirements

All Swimming Pool Owners in NSW are required to:

1. Register their swimming pools on the state-wide on-line register at www.swimmingpoolregister.nsw.gov.au.
2. Swimming Pool owners are required to self - assess, and state in the register that, to the best of their knowledge, their swimming pool complies with the applicable standard when registering their pool. A copy of a self-assessment applicable to the timeframe the pool was built can be downloaded at the time of registering the owners pool and the self- assessment is also undertaken at this time.
3. Failure to register pools may result in potential penalty notices for owners.
4. Swimming pool owners will be required to provide a valid swimming pool compliance certificate before being able to sell or lease a property with a pool.

Part 11 – Swimming Pool Audit Inspection Program

Council only undertakes Swimming Pool Compliance inspections on all tourist and visitor accommodation as well as premises with more than 2 dwellings which commenced on 29 April 2014, on a three year rolling basis.

Council also undertakes Swimming Pool Compliance inspections where pool owners require a Swimming Pool Compliance Certificate before the sale or lease of their property.

Council also carries out Summer pool inspections with the intention to regulate non-approved pools and where health/safety issues have been identified and brought to council's attention by members of public.

Council will issue a compliance certificate after an inspection which finds a pool barrier compliant with the requirements of the legislation. Compliance Certificates are valid for three years.

Council's swimming pool audit and inspection program operates on a three (3) year rolling basis. All swimming pools subject to the provisions of this policy will be inspected to ensure compliance with the provisions of:

- This policy;
- Swimming Pool Acts 1992, Swimming Pools (Amendment) Act 2012;
- Swimming Pools Regulation 2008
- AS 1926.1-2012.
- AS 1926.1-2007.
- AS 19.26.1-1986

An inspection fee will apply and will be charged at the rate adopted in Council's schedule of Fees and Charges.

As a result of audit inspections, properties identified as having pool safety issues (fencing etc) are:

- Firstly issued a 14 day outstanding works letter.
- Following this a reinspection occurs and if compliance is not achieved the owner is then served with notices to ensure that they comply with the applicable swimming pool legislation.
- Potential fines and/or court action can also occur.

Legislative Context

- This policy has been created to promote compliance with:
- Swimming Pool Act 1992
- Swimming Pools (Amendment) Act 2012
- Swimming Pools Regulation 2008
- State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Exempt & Complying Development Codes) 2008
- Australian Standard 1926.1-2012
- Australian Standard 1926 -1986
- Australian Standard 1926.1 - 2007
- Australian Standard 2783 – 1992
- Australian Standard/NZS 1838 – 1994
- Australian Standard/NZS 1839-1994
- Australian Standard 1926.1-2012

Definitions

Term	Definition
Act	Swimming Pools Act 1992 and Swimming Pools (Amendment) Act 2012
Existing Pool	A swimming pool whose construction had commenced prior to August 1, 1990.
New Pool	A swimming pool whose construction or installation had commenced after August 1, 1990.
Swimming Pool	A permanent or temporary excavation, structure or vessel

Revision History

Revision number	Council resolution	Council meeting date
1	Res No: 10/241	27 September 2010
2	Res No: 10.335	13 December 2010
3	Res No: 12/288	24 September 2012
4	Res No: 13/301	21 October 2013
5	Res No: 15/031	9 February 2015
6	Revision approval under General Manager delegated authority	24 February 2016
7	Res No: 17/279	28 August 2017
8	Res No: 22/354	17 October 2022