
Fact Sheet: Swimming Pools

What is your responsibility under the Swimming Pools Act ?

The *Swimming Pools Act 1992*, the *Swimming Pools Regulation 2008* and *AS 1926.1 – 2007 Australian Standard Swimming Pool Safety Part 1: Safety barriers for swimming pools* apply to all swimming pools (both indoor and outdoor) on a premises where there is a residential building, a movable dwelling (e.g. caravan) or a hotel or a motel.

If you are the owner of a premises on which a swimming pool is situated you must ensure the following in relation to your pool:

- The pool is surrounded by a child-resistant barrier consisting of a fence of a height no less than 1.2 metres high (1.8 m high if a boundary fence).
- Ensure the barrier, gates and doors are in good working condition, and the gate opens outwards and has a self closing mechanism device at a height of 1.5m high above finished ground level
- Doors and gates that provide access to the pool area are to be kept securely closed at all times when not in actual use
- Display prominently a prescribed resuscitation sign in the immediate vicinity of the swimming pool.
- Size of apertures between fence and under bottom railings should be no greater than 100 mm.

Do the requirements vary for barriers for premises according to when the pool was built?

Older pools may not need to comply with the current swimming pool legislation requirements but may be exempt under the Act or may be able to comply with the Regulations and Standards in force at the time of the pools construction, which are as follows:

- Pools built or installed **before** 1 August 1990 must be either surrounded by a child resistant barrier or access to the pool from the dwelling must still be restricted at all times in accordance with the standards prescribed by the Regulations.
- Pools built or installed **after** 1 August 1990 but **before** 1 September 2008 must be surrounded by a child-resistant barrier that separates the pool from any residential building situated on the premises and from any place adjoining the premises as required by the *Swimming Pool Regulation 1998*. The child-resistant barrier must be designed, constructed, installed and maintained in accordance with Australian Standard *1926-1986 Fences and Gates for Private Swimming Pools*.
- Pools on small properties (less than 230 square metres) or large properties (minimum 2ha) where the development was or is commenced before 30 July 2010, must be

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either surrounded by a child-resistant barrier or access to the pool from the dwelling restricted at all times in accordance with the standards prescribed by the Regulations

If the child resistant barrier has been substantially altered or rebuilt the pool must comply with current Standards.

Can I be penalised if I do not comply with the requirements?

Yes. Serious penalties apply if you do not comply with the requirements of the Act ranging from \$ 550 to \$ 5,500.

Council's can issue owners with a notice directing you to repair/rectify any deficiencies with pool safety fencing to comply with the Swimming Pool Act and Regulations.

What are my responsibilities if I am renting a property with a pool?

If you are renting a property under a residential tenancy agreement, the *Residential Tenancies Act 1987* provides that:

- The landlord is responsible for providing and maintaining the premises in a reasonable state of repair.
- The tenant is not to intentionally or negligently damage the premises and the tenant must notify the landlord of any damage.
- The tenant may carry out urgent repairs for any fault or damage that causes the premises to be unsafe if the landlord or agent cannot be contacted or does not carry out urgent repairs within a reasonable time.

What is Council's responsibility?

With over 3000 backyard swimming pools in the Wagga Wagga City Local Government Area, pool safety is a big community issue. Pools can be great fun, however, for some; they have also resulted in tragedy. Drowning of young children can happen quickly and silently.

Wagga Wagga City Council plays a role in ensuring that pool safety is maintained and is one of few local authorities in NSW that carries out swimming pool safety audits.

As a result of audit inspections, properties identified as having pool safety issues (fencing etc) are served with notices to ensure that they comply with the applicable swimming pool legislation.

Council carries out its audit inspections on a rolling program that attempts to ensure that every property with a swimming pool will be inspected over the next five years.

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While fencing and regular checks to ensure the reliability of the fence and gates may help reduce drowning in backyard pools, there is substitute for adequate supervision of children by a parent or another responsible adult.

Research conducted on child drownings in backyard swimming pools indicates that the most common contributing factors are unfenced pools and human error, for example, people leaving the gate open or fences not being maintained.

It is the responsibility of the occupier to keep the pool fence in a state of good repair, and ensure all gates providing access to the swimming area are maintained so they are self-closing and self-latching. The occupier must also display a prescribed resuscitation sign near the swimming pool, to show resuscitation techniques and a supervision warning.

Pool users and owners should be aware that if there is a death or injury in a pool, legal liability may fall on the person responsible for the pool at the time, even if a safety fence is installed.

Council inspectors have a responsibility to administer the Swimming Pools Act and Regulation(s) in its local government area. Council will promote the awareness of the requirements of the legislation in relation to swimming pools.

Council undertakes Swimming Pool Compliance Inspections and will grant you a certificate of compliance if your swimming pool complies with the requirements of the Act, however if your pool doesn't comply with the requirements of the Act, then Council will advise you of any areas of non compliance with the pool safety fencing that will require rectification works to ensure that pool safety fencing complies.

How do I keep my pool safe?

- **Always** keep your fence, gates, doors, and window locks secure and in good condition. Check them regularly.
- **Always** keep your gate and door latches and self-closing mechanisms in good working order
- **Always** ensure your gates and doors are self closing and latching from any open position. **Never** prop a gate open
- **Never** leave climbable objects near the fence
- **Always** keep trees, shrubs and creepers trimmed well away from the fence

ALWAYS SUPERVISE YOUR CHILDREN AROUND THE POOL AT ALL TIMES. A FENCE IS NO SUBSTITUTE FOR RESPONSIBLE SUPERVISION

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Where can I find more information about pool safety?

Swimming Pool Safety is legislated by the *Swimming Pools Act 1992*, the *Swimming Pools Regulation 2008* and *AS 1926.1-2007 Australian Standard Swimming Safety Part 1: Safety barriers for swimming pools*.

Members of the public can view (but not print) the Standard at Council offices.

For further information of recent changes to the Act, links to fencing and pool safety checklist visit www.homepoolsafety.com.au

Please contact Council's Building Services Section on 1300 292 442, or view Council's website under the Planning section.

Changes to the Swimming Pools Act

The Swimming Pools Amendment Act 2012 commenced on 29 October 2012 and makes a number of amendments to the Swimming Pools Act 1992: Information is provided below regarding the impact of these legislative amendments for pool owners and councils. Additional information about the staged implementation provisions is also provided below.

Pool Owners:

- Swimming pool owners are required to register their swimming pools at www.swimmingpoolregister.nsw.gov.au
- Swimming Pool owners will be 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.
- There is a penalty for owners who fail to register a swimming pool (penalty notice amount of \$220).
- 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.
- Accredited certifiers under the Building Professional Act 2005 may conduct swimming pool inspections initiated by the pool owner.
- A swimming pool subject to an occupation certificate is exempt from an inspection program for three years from the date of issue of the occupation certificate.

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- Councils may inspect any swimming pool that is the subject of a complaint to the council.
- Council powers of entry will be consistent with the Local Government Act 1993.
- Councils may charge a fee for each inspection undertaken (up to a maximum of \$150 for the first inspection and \$100 for one re-inspection resulting from the first inspection).