



MOSMAN SWIMMING POOL INSPECTION PROGRAM

Adopted by: Council on 1 August 2023

Purpose

This Policy outlines the inspection program relevant to all swimming pools regulated under the *Swimming Pools Act 1992*. A reference to a swimming pool in this document also includes a spa pool.

Objectives

The inspection program is designed to provide measures to identify non-compliant swimming pools, ensure upgrade works are carried out and in the process raise swimming pool safety awareness.

Scope

Mosman Council, property and business owners in Mosman.

Inspection Program

An inspection of a swimming pool is to be carried out by Council, where any of the following circumstances exist:

Customer Requests

On receipt of a Customer Request from a member of the public or other authority concerning an alleged defective swimming pool barrier, a written request will be forwarded to the owner of the swimming pool to arrange access for an inspection.

Should the inspection confirm the swimming pool barrier does not comply with the *Swimming Pools Act 1992* then a Direction may be issued to the owner outlining works to make the barrier compliant or other enforcement action.

Certificate of Compliance Applications

Section 22D of the Act provides for a swimming pool owner to make application to Council or an Accredited Certifier for a Certificate of Compliance. On receipt of an application and payment of the inspection fee, Council will undertake an inspection of the swimming pool. The inspection will be organised within 10 business days after receiving the application and inspection fee. Where a defective barrier has been identified, a Direction will be issued to the swimming pool owner.

A re-inspection will be undertaken by Council and the appropriate re-inspection fee will be paid by the swimming pool owner. A certificate of compliance will be issued in respect of a swimming pool that is registered on the Department of Local Government Swimming Pools Register and that complies with the requirements of Part 2 of the Act.

Exemption Applications

Section 22 of the Act provides for a swimming pool owner to make application to Council for an Exemption from all or any of the requirements of Part 2 of the Act, in certain circumstances. On receipt of an application and the appropriate fee, Council will undertake an inspection of the swimming pool. After determination of the Exemption Application, where further works are necessary to make the swimming pool barrier compliant, Council will issue a Direction to the swimming pool owner.

Other inspections at request of owner

Section 22C of the Act provides for a swimming pool owner to make application to Council for an inspection, which includes advice about swimming pool compliance. On receipt of an application and payment of the inspection fee, an inspection of the swimming pool will be undertaken. Where a defective barrier is identified, a Direction will be issued to the swimming pool owner.

Notices issued by an Accredited Certifier

Section 22E of the Act requires that an Accredited Certifier must provide a Notice to the owner of a swimming pool after inspection, if not satisfied that the swimming pool is compliant. A copy of the Notice is required to be provided to Council. On receipt of a notification from an Accredited Certifier, a written request will be forwarded to the owner of the swimming pool to arrange access for an inspection to be undertaken and payment of the inspection fee in accordance with Section 22F of the Act. Where a defective barrier is identified, a Direction will be issued to the swimming pool owner.

The development certification role and Building Information Certificate applications

Where Council is engaged as a Certifier and/or on receipt of an application for a Building Information Certificate for a property which has a swimming pool, arrangements will be made with the swimming pool owner for an inspection to be undertaken of the swimming pool. Where a defective barrier is identified, a Direction will be issued to the swimming pool owner.

Tourist and visitor accommodation or premises with more than two dwellings

'Tourist and visitor accommodation' means a building or place that provides temporary or short-term accommodation on a commercial basis and includes any of the following: backpacker's accommodation, bed and breakfast accommodation, farm stay accommodation, hotel or motel accommodation, serviced departments, but does not include camping grounds, caravan parks or eco tourist facilities.

'Dwelling' means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile. Premises containing more than two dwellings would include a residential flat building, town houses, villas or the like.

These categories of premises are to be inspected at least once every three years. A written request will be forwarded to the owner of the swimming pool to arrange access for an inspection to be undertaken and payment of the inspection fee in accordance with Section 22F of the Act. Where a defective barrier is identified, a Direction will be issued to the swimming pool owner.

Council audit

Where inspection resources permit, the swimming pool register will be reviewed to identify swimming pools where there is not a valid Certificate of Compliance or a relevant Occupation Certificate in existence and Council has not carried out an inspection of the swimming pool in the past 5 years. A written request will be forwarded to the owner of the swimming pool to arrange access for an inspection to be undertaken and payment of the inspection fee in accordance with Section 22F of the Act. Where a defective barrier is identified, a Direction will be issued to the owner of the swimming pool.

Enforcement Actions and Fees

Inspections and re-inspection fees

Section 22F of the Act allows Council to charge an inspection fee for all inspections carried out under Division 5 of the Act.

An initial inspection fee will be payable by the swimming pool owner at the time of making an application or request to Council for an inspection of a swimming pool. An application will not be taken as being lodged until payment of the application fee has been received by Council.

Where Council has initiated the need for an inspection in accordance with this program, other than for a complaint, a request for payment will be forwarded to the owner of the swimming pool.

Where a re-inspection is necessary, a re-inspection fee will be payable by the swimming pool owner. In such cases, Council will request payment from the swimming pool owner prior to re-inspection.

All inspection fees will be charged in accordance with Council's schedule of fees and charges.

Directions

Where a defective swimming pool barrier has been identified, the non-compliant aspects will be notified to the swimming pool owner as a Direction. The Direction is a legally enforceable document and provides the swimming pool owner with a right of appeal to the Land and Environment Court.

After the time period for compliance with the Direction has expired, a reinspection of the swimming pool will be carried out by Council to determine if compliance has been achieved. Given the safety issues, any failures to comply would result in Council seeking legal enforcement of the Direction through an application to the Land and Environment Court.

Penalty Infringement Notices

There are a range of Penalty Infringement Notices (on the spot fines) that will be issued by Council for non-compliance with the requirements of the Act. Such penalties are not used as an initial response by Council but rather as a deterrent for continued failure to comply.

Review

This policy will be reviewed every four years unless otherwise directed by the Executive team.

Contact

Enquiries should be directed to the Manager Compliance on 9978 4059

Amendments

Date	Amendment	Reference
December 2013	Adopted	EP/77
August 2023	Adopted	EP/30
November 2023	Minor administrative changes to update terms and provide clarity to some statements	