

Lismore City Council

Swimming Pool Barrier Inspection Program

Adopted by Council 10 December 2013



INSPECTION PROGRAM

In response to community consultation, Lismore City Council considered a report on 10 December 2013, and has adopted this swimming pool barrier inspection program, which reflects the level of expectation within the community regarding the provision of “*child resistant barriers*” around swimming pools within the Lismore Local Government Area. (LGA)

Council’s swimming pool barrier inspection program is that Council will not undertake a programmed inspection program of existing swimming pools within the Lismore LGA because of the inability to recover costs incurred for providing such a high level of service to the community. Given that more than 90% of swimming pool barriers fail to meet the relevant standards on first inspection, and the regular failure of persons to respond to directions to comply, a proactive, scheduled program for swimming pool barriers, is not a level of service that Council can provide to the community.

Council’s adopted swimming pool barrier inspection program is therefore limited to responding directly to requests for compliance certificates and responding to complaints in accordance with the statutory requirements contained within the Swimming Pools Act 1992,

Council’s adopted inspection program also has an education component, which runs in conjunction with a compliance and enforcement process, which is designed to ensure compliance activities are undertaken in a consistent, cost effective manner and that a fair and equitable outcome for community is achieved.

Council’s adopted “Enforcement Policy” & accompanying “Compliance and Enforcement Guidelines” support this program.

Council has re-directed resources used in its current inspection program towards the adopted inspection program in order to achieve the expected number of requests for compliance certificates and the subsequent increase in the number of inspections which will be required.

Council will charge the fees legislated by the State Government to assist in recovering the resources dedicated to the issuing of compliance certificates and the associated compliance enforcement obligations: At the time of adopting this program, these fees were:

1. \$150 for the initial inspection, and
2. \$100 for one re-inspection (if required).
3. Charging the prescribed fee of \$100.00 for each compliance certificate issued.
4. A penalty infringement notice will be issued to non-compliant pool owners after the second inspection.
5. Council will seek to recover all expenses incurred where compliance is not achieved and additional enforcement action in obtaining Court Orders is required.
6. A penalty infringement notice will be issued to pool owners who are known to Council and have not registered their pool.

(The above fees will be subject to any change in any legislation in the future as reflected in Council's adopted fees and charges)

Education Program

Council's preferred method of achieving community awareness and ultimately compliance is to provide up to date and accessible information. Council's dedicated website has links to numerous sites, which provide access to barrier check lists, legislation, Australian Standards and videos demonstrating how to achieve compliance with the requirements of the Act.

Council will continue to update information on its website as information becomes available.

Compliance Certificates

A swimming pool compliance certificate, which is valid for 3 years from the date of issue, must be attached to the contract, when selling or leasing a property with a pool. High-risk developments such as Motels, Multi unit flats with pools are required to have inspections of their enclosures and provide a valid compliance certificate on request.

It is mandatory, under the Swimming Pools Act 1992, for Council to inspect "*child resistant barriers*" once an application for a Compliance Certificate is requested by the pool owner or their real estate agent and also in circumstances where a written complaints about a specific pool is received

The process

1. The applicant makes contact with Lismore City Council to arrange payment of \$250.00 (the initial inspection fee \$150.00 plus the compliance certificate fee of \$100.00) and to coordinate an inspection time.
2. If the "*child resistant barrier*" is compliant at the time of the initial inspection a compliance certificate will be issued.

Compliance and Enforcement.

In circumstance where the "*child resistant barrier*" is not compliant and a compliance certificate cannot be issued, Council has a statutory responsibility to undertake an enforcement process to insure compliance is achieved.

1. If the "*child resistant barrier*" is not compliant, Council will commence enforcement action by issuing a notice of direction to undertake specified works required to achieve compliance.

The notice generally will provide 14 days to address the issues.

2. If no advice is received, within the time period, from the owner of the premises to indicate the non-compliances have been addressed, Council will issue a Direction to undertake the specified works required to achieve compliance.

The Direction will generally provide 30 days to address the issues.

3. If advice is received, from the owner of the premises to indicate the non-compliances have been addressed, within the above timeframes, upon payment of an additional \$100.00 inspection fee, Council will conduct another inspection and issue a certificate of compliance if appropriate.
4. If no advice is received, from the owner of the premises to indicate the non-compliances have been addressed or if compliance is not achieved by the conclusion of the second inspection, Council may issue a Penalty Infringement Notice and/or if appropriate, initiate legal action to seek a Court Order.

Council will seek reimbursement of any expenses incurred by Council as a result of taking additional enforcement action.

Inspection protocol

Council will conduct a visual inspection of the *child resistant barrier* and not undertake any instrumental strength or rigidity measurements or tests unless obvious inadequacies are observed. The owner of the premises is responsible to ensure any manufactured fencing or component complies with the relevant Australian Standard.

Based on cost recovery principles, and taking into account travel time and administrative functions, the inspection will be limited to a maximum of 20 minutes, during which time Council's inspector can detail any non-compliances, if any are found, and provide verbal recommendations to the owner on how to achieve compliance.

Where non-compliances are observed, the inspection will be followed up with a Notice of Direction, which details the non-compliances in a format referring to the specifications within the Australian Standard to which the non-compliance relates. See example below.

- *A horizontal buffer zone of 300mm is to be provided and maintained around the inside of the swimming pools child resistant barrier. Any obstruction, including vegetation, pool furniture, objects and sheds encroaching within this buffer zone shall be removed in accordance with Australian Standard 1926.1-2007 "Safety barriers for swimming pools" as these objects may provide footholds which effectively reduce the height of the fence*

Each separate non-compliance, within that specification, will not be listed and it will be the responsibility of the owner/ occupier of the premises to obtain separate professional advice and ensure the entire enclosure complies with that particular requirement prior to reinspection. Pool owners can assist Council by ensuring their availability for attendance at an inspection to ensure an understanding of any issues that need to be addressed.

A professional services fee as provided for in Council's adopted fees and charges will be charged if the owner/ occupier wishes to obtain additional or ongoing professional advice and inspection to assist in achieving compliance beyond the above inspection regime.