

## PRIVATE SWIMMING POOL SAFETY

### Summary:

The purpose of this policy is to provide clear direction on the requirements for the installation of domestic swimming pools and associated fencing and safety measures.

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| <b>Endorsed By</b>              | Council                                 |
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| <b>Consultation Period</b>      | N/A                                     |
| <b>Review Due Date</b>          | September 2023 – 3 years                |
| <b>Department</b>               | Office of Chief Corporate               |
| <b>Policy Custodian</b>         | Manager Planning & Development Services |
| <b>Superseded Documents</b>     | N/A                                     |
| <b>Related Legislation</b>      | N/A                                     |
| <b>Delegations of Authority</b> | Manager Planning & Development Services |

### 1. Overview

Tenterfield Shire Council is concerned at the dangers presented to young children, particularly those under the age of five (5) 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.

Tenterfield Shire Council requires that all swimming pools are separated from residential buildings on site by a barrier complying with AS 1926. 1-2012 as required by the Swimming Pool Act 1992. 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.

## **2. Policy Principles**

To ensure domestic swimming pools are installed and operated in accordance with current Australian Standards to ensure the safety of all users.

## **3. Policy Objectives**

To save and protect lives by preventing drowning in backyard pools.

To inform pool owners of their responsibilities and obligations under the Swimming Pool Act 1992.

## **4. Policy Statement**

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To inform pool owners of their responsibilities and obligations under the Swimming Pool Act 1992.

## **5. Scope**

### **PART 2: INSTALLATION OF NEW POOLS**

#### **Approval**

##### **2.1 General**

1. Prior to constructing or installing a pool, an applicant must obtain either:
  - A development consent and associated construction certificate; or
  - A complying development certificate.
  
2. A BASIX Certificate must be provided with any application for the installation of any swimming pool where the capacity is 40,000L 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 to be installed prior to Councils issuing any Occupation Certificate for the pool.
  
3. Applications for swimming pools must generally be accompanied by:
  - A site plan showing measurements of the location of the pool in relation to all other buildings on the allotment, and the boundaries of the allotment;
  - A plan clearly showing the location of the required swimming pool safety barrier and gate, and specifications to demonstrate the proposed swimming pool barrier complies with AS 1926.1 – 2012;

- Location of proposed swimming pool pump, and water overflow discharge;
- 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;
- All plans are to be legible and to a suitable scale e.g. 1:100;
- Statement of Environmental Effects.

Refer to Council's combined DA/CC/CDC Application Form.

Guides for further submission requirements.

## **2.2 Structural**

- a. A pool construction site or pre-fabricated pool shall comply with the relevant Australian Standard; including:
  - AS 2783 – 1992 – use of concrete for swimming pools;
  - AS/NZS 1838 – 1994 Swimming Pools – premoulded fibre-reinforced plastics – design and fabrications; and
- b. Where a pool is constructed of reinforced concrete it shall be finished with a suitable surface and shall be designed by a practicing structural engineer.

## **PART 3 – EXEMPTIONS TO POOL REQUIREMENTS**

The Swimming Pools Act 1992 provides some exemptions for existing Swimming Pools constructed or installed prior in specific timeframes in certain circumstances such as on small properties, large properties and waterfront properties to not have a child resistant

barrier installed provided access to the swimming pool from a residential building is restricted in accordance with the provisions of the appropriate Australian Standard.

## **PART 4 – PRIVATE 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 – 2010, Water recirculation systems."
- b. Water Quality for spa pools shall be in accordance with AS 2610.2 – 2007 Spa Pools --Private Spas.

- 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 Tenterfield Shire Council sewer. On allotments where sewer is not available these waste waters must be discharged in accordance with an approval under the *Local Government Act 1993*.

**Note: A Section 68 Approval is required for all on-site sewerage management (OSSM) systems.**

#### **4.3 Exemptions**

- a. An application may be made by the owner of the land under Section 22 of the Swimming Pool Act 1992 for and 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 Section 13 of the Regulations).

**Note: The exemptions for swimming pools located on very small, large and water front properties do not apply to any swimming pool for which construction commenced on or after 1 July 2010.**

### **PART 5 – POOL DECKS AND PRIVACY SCREENS**

#### **5.1 Required Approvals**

- a. 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 in conjunction with the application for the pool installation.

#### **5.2 Design Requirements**

- a. 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 – OTHER POOL REQUIREMENTS – GENERAL INFORMATION**

### **6.1 Aboveground Pools**

- a. For aboveground pools, including inflatable pools, the walls are not considered to be a child resistant barrier.

### **6.2 Spa Pools**

- a. 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**

- a. 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 Pool Act 1992 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 1.5 m (above ground level) AGL. The self-closing mechanism must be located a minimum of 1.5 m (above ground level) AGL. However where the release to either the latching device or the latch is located at a height less than 1500mm AGL, the latch and its release shall be so shielded that no opening greater than 10mm occurs within an area bounded by either an effective radius of 450mm 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 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 will only open outwards (away from the pool);
- c. Each child resistant barrier (fence) must be approved by the certifying authority 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 1.8 metres 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 – SWIMMING POOL REGISTRATION & COMPLIANCE CERTIFICATES**

The owners of properties with a swimming pool and/or a spa pool are required to register their pools and spas on the:

<http://www.swimmingpoolregister.nsw.gov.au/>

Failure to register a swimming pool or spa may result in a fine for the amount of \$220.00.

Tenterfield Shire Council has commenced the implementation of an inspection program with intent to carry out an inspection of all swimming pools and their barriers located within the Tenterfield Local Government Area. Should the swimming pool be compliant following the inspection, then a "*Certificate of Compliance*" will be issued for the swimming pool which remains valid for 3 years.

In order for a Swimming Pool or Spa to be deemed compliant and issued with a "Certificate of Compliance", the Pool or Spa must be registered on the *NSW Swimming Pool Register* and must have a compliant child resistant barrier installed and maintained as per the standards set out in the *National Code of Australia*.

As of the 29<sup>th</sup> April 2016, any property in NSW on which a swimming pool or spa pool is located cannot be sold or leased without a valid certificate of compliance.

### **6. Accountability, Roles & Responsibility**

#### **Elected Council**

Not applicable.

#### **General Manager, Executive and Management Teams**

Not applicable.

#### **Management Oversight Group**

Not applicable.

#### **Individual Managers**

Manager Planning & Development Services.

### **7. Definitions**

For the purpose of this Policy the following definitions apply:

"Act" – means the Swimming Pool Act 1992.

"Existing Pool" – means a swimming pool whose construction had commenced prior to 1 August 1990.

“New Pool” – means a swimming pool whose construction or installation had commenced after 1 August 1990.

“Swimming Pool” – means a permanent or temporary excavation, structure or vessel that is:

- a. Capable of being filled to a depth of 300mm or more; and
- b. Solely or principally used or that is designed, manufactured or adopted to be used for the purpose of swimming, wading, paddling or any other human aquatic activity and includes a spa pool or tub but does not include a spa bath situated within a private bathroom.

## 8. Related Documents, Standards & Guidelines

- Swimming Pool Act 1992
- AS 1926.1-2012 Fences
- AS 2783-1992 – use of concrete for swimming pools;
- AS/NZS 1838 – 1994 Swimming Pools – premoulded fibre-reinforced plastics – design and fabrications; and

## 9. Version Control & Change History

| Version | Date     | Modified by | Details                                      |
|---------|----------|-------------|--|
| V1.0    | 26/11/12 | Council     | Adoption of Original Policy (Res No. 480/12) |
| V2.0    | 25/11/15 | Council     | Review/Amended (Res No. 380/15)              |
| V3.0    | 23/08/17 | Council     | Review/Amended (Res No. 168/17)              |
| V4.0    | 23/09/20 | Council     | Review/Amended (Res No. 196/20)              |
| V5.0    | 21/12/22 | Council     | Re adoption of Policy (Res No. 248/22)       |