

# DRAFT Swimming Pool Barrier Inspection Program

*s.22B Swimming Pools Act*

2026 | Version 2.0



PORT MACQUARIE  
HASTINGS COUNCIL

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# 1. Introduction

Councils in New South Wales were required to develop and adopt a mandatory pool inspection program in consultation with their local communities. This program was initially exhibited and adopted in October 2013, and any changes are placed on exhibition for community consultation prior to adoption.

This document outlines the Port Macquarie-Hastings Council's Pool Inspection Program, which is aimed to lower the risk of drowning in swimming pools in the Port Macquarie-Hastings local government area, particularly in regard to children, by improving the level of compliance with pool barriers and other design features.

We acknowledge that pool barriers are not child-proof, and that children may still drown where there is a compliant barrier. Having a pool barrier does not replace the need to supervise children, but to delay and increase the time taken for young children to access the pool.

## 2. Purpose

The *Swimming Pools Act 1992 (SP Act)*, Section 22B requires the development and adoption by councils of a program for the inspection of swimming pools in its local government area to ensure compliance with the requirements of Part 2 of the *Swimming Pools Act 1992* – access to swimming pools.

Councils are then required to inspect swimming pools in accordance with the adopted program. A swimming pool that is situated on premises that is not residential or does not provide accommodation (eg council pools, pools in gyms/health centres, water parks and the like where there is no accommodation) are not required to be inspected under this program.

## 3. Legislation and Standards

The legislation, regulation and standards (as amended) that apply to this Swimming Pool Inspection Program include:

- *Swimming Pools Act 1992*
- *Swimming Pools Regulation 2018*
- Building Code of Australia
- Australian Standard AS1926
- Australian Standard AS1926.1
- Australian Standard AS1926.2

## 4. Definitions

For the purpose of this document, reference to a swimming pool means a swimming pool, spa pool, or swim spa regulated under the *Swimming Pools Act 1992*:

***swimming pool*** means an excavation, structure or vessel—

- a) *that is capable of being filled with water to a depth greater than 300 millimetres, and*
- b) *that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,*

*and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.*

For the purpose of this document, reference to tourist and visitor accommodation is as defined *Port Macquarie-Hastings Local Environmental Plan 2011*:

**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—

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include—

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

**NOTE:** Camping grounds, caravan parks and eco-tourist facilities are still included as mandatory, as they have more than one dwelling.

## 5. The Importance of Pool Safety

Swimming pools offer a social amenity that is of great benefit to those who have use and access to it. With this however, goes an obligation outlined in legislation to maintain the pool in a safe manner.

The regulation of pools on private property has been the subject of ongoing legislative review and reform since 2008 due to the tragic increase of infant and toddler injury and death in swimming pools.

A local council swimming pool inspection program aims to increase the level of swimming pool barrier compliance with standards and the design of pools and pool barriers. Of course, along with an effective pool barrier, the most critical element in reducing the incidence of young children drowning in backyard swimming pools is constant adult supervision when at properties with swimming pools.

## 6. NSW Swimming Pool Register

The NSW Government in accordance with the SP Act, created and maintains an on-line Swimming Pool Register [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

Swimming pool owners are required to register their pools on this register.

## 7. What is a pool Certificate of Compliance?

A certificate of compliance is issued once a pool barrier has been inspected and checked against the relevant pool safety requirements. A compliance certificate is valid for three years unless revoked sooner. A pool may be inspected more frequently than three years if a complaint has been received with respect to pool safety or there is good reason to suspect the pool barrier no longer complies with the pool safety requirements, or the barrier has been modified.

Swimming pools with a valid certificate of compliance or an occupation certificate are not required to be inspected as part of this pool inspection program for three years from the date of issue of the certificates (see Section 22B(3) of the SP Act). If, however, the Council is made aware of a pool that no longer has a compliant pool barrier, the pool may be inspected earlier. If a barrier is compliant, a certificate of compliance cannot be issued unless it is applied for.

## 8. What happens if a Pool Barrier is Non-Compliant?

A pool certificate of compliance cannot be issued if the pool is not assessed at the inspection as meeting all requirements under the SP Act. In such a case the council officer must issue a notice specifying the works required to be completed.

Where the dwelling is for sale and the barrier does not comply, a certificate of non-compliance may be issued if the issues are not a significant risk. The certificate of non-compliance will allow the sale to proceed. If a certificate of non-compliance is issued, the rectification works are still required to be completed, and this will be required to be undertaken by the new owners if sold non-compliant.

Once a certificate of non-compliance has been issued, the property owner has two choices:

1. Rectify the barrier and obtain a compliance certificate through Council or a private certifier, or
2. Sell as non-compliant. If the property is sold within 12 months of the certificate being issued, the new owner will have 90 days from settlement to rectify the barrier.

**Note:** Council will undertake regulation in line with the compliance and enforcement policy, if the original inspection determines the swimming pool poses a significant risk to public safety.

If the works are not undertaken or the pool cannot pass a subsequent inspection, then Council may take enforcement action in accordance with Council's Compliance and Enforcement Policy.

## 9. What is the “applicable standard” that applies?

In certain, very limited circumstances, certain pools may be assessed against a previous standard or requirement that applied from when the pool barrier was constructed. This may apply to a swimming pool barrier provided the owner can demonstrate that the pool has always complied with the standard or requirements at the time the pool barrier was installed.

This provision is forfeited if it cannot be demonstrated that the pool barrier has continuously been maintained to the standard from the time of installation. In such cases the pool barrier must comply with the now current standard. **NOTE:** Australian Standards are regularly reviewed and updated, which may mean different requirements will apply for a newer standard.

Swim-spas due to their nature and size will not be considered spa pools for the purpose of section 9 of the Swimming Pools Regulation. They cannot use a lockable lid and must have a barrier in accordance with section 7 of the SP Act. Whilst the legislation does not define a spa, a lockable lid is not considered an adequate barrier for this type of pool due to the size and ability for the lid to be replaced and removed by the occupiers when not in use.

## 10. Pool Inspections

### MANDATORY POOL BARRIER INSPECTIONS

Council's swimming pool inspections will be carried out by council officers (i.e. Building Surveyors and Compliance Officers) duly authorised by the General Manager in accordance with the *Swimming Pools Act and Regulation*.

The legislation requires certain properties to have the pool barrier inspected every three years. This includes pools barriers located at:

- Tourist and visitor accommodation
- Properties with more than two dwellings

It is the responsibility of the owners of these pools ensure that there is a current certificate of compliance. Pool owners have a choice to engage either Council or a private certifier to conduct an inspection and issue a certificate.

Site specific exemptions issued by Council under Section 22 of the *Swimming Pools Act 1992* may contain conditions requiring more frequent inspections.

### Other Inspections

- All properties with a pool being sold or leased/rented must have a current pool certificate of compliance or certificate of non-compliance.
- Pools where an application has been received by the Council for the issue of a pool certificate of compliance
- Pools the subject of a complaint made to the Council
- When the Council reasonably suspects a pool contravenes the SP Act.

## 11. Fees

Port Macquarie-Hastings Council sets out and updates the fees for pool inspections in the annual Schedule of Fees and Charges.

## 12. Education and Awareness

Pool owner education and awareness is an important contributing factor in lifting swimming pool barrier compliance rates.

An on-going community education and awareness program will be delivered through community publications, media releases, web-based information, social media, and interaction with council officers during the inspections.

## 13. Compliance and Enforcement

The SP Act provides that failing to comply with the swimming pool safety requirements may constitute an offence under the Act. Enforcement action will be undertaken in accordance with Council's Compliance and Enforcement Policy.

## 14. The Role of Private Certifiers

Pool owners may request an appropriately qualified person registered with the Building Commission NSW to provide a pool barrier certificate of compliance. These certifiers may set their own fees. Having conducted an inspection, if the pool does not meet the applicable standard, the private certifier may allow a pool owner six weeks to rectify the deficiencies before advising Council, or, if the pool is considered a significant risk the certifier must notify Council within three days. Following receipt of such a notification, Council becomes responsible for undertaking action to enforce compliance with the Act and Regulation.

## 15. Review History

Version	Exhibition dates	Reason	Approval date	Minute reference
1	11-28/10/2013	Created - Legislative requirement	2013	-
2		2019 Review	2019	-
3		2026 Review		

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