



**Burwood** <sup>Inc.1874</sup>

Burwood . Burwood Heights . Croydon . Croydon Park . Enfield . Strathfield

## **SWIMMING POOL POLICY**

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## Purpose

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The purpose of the Swimming Pool Policy (Policy) is to provide a functional and transparent framework to ensure that Council meets all its obligations under the *Swimming Pools Act 1992* (the Act). It also ensures that Council actively raises community awareness of the importance of swimming pool safety to aid in the reduction of drowning and near-drowning events within the Burwood Local Government Area (LGA).

## Scope

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This policy applies to all swimming pools affected by the Act within the LGA. Section 4 of the Act states that:

*The Act applies to swimming pools (both outdoor and indoor) that are situated, or proposed to be constructed or installed, on premises in which a residential building, a moveable dwelling or tourist and visitor accommodation is located, but does not apply to swimming pools that are situated, or proposed to be constructed or installed, on any premises occupied by the Crown or by a public authority.*

## Policy Statement

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In undertaking its obligations under the Act, Council will;

- (a) Develop a Swimming Pool Barrier Inspection Program Corporate Procedure (the Procedure) outlining how Council intends to achieve its statutory obligations under the Act;
- (b) Provide advice to residents on swimming pool barriers and swimming pool safety;
- (c) Comply with NSW Fair Trading advice in relation to the certification of swimming pools;
- (d) Undertake mandatory swimming pool inspections of tourist and visitor accommodation, and multi-occupancy developments once every three years (Section 22B of the Act);
- (e) Inspect any swimming pool that is subject of an owner request for inspection (under section 22C of the Act) to ensure the pool barrier is installed in accordance with the requirements of the Act within a reasonable time;
- (f) Inspect any swimming pool that is the subject of a complaint under the Act. This includes swimming pools identified by staff (Authorised Officers under Part 3 of the Act) who attend a premises in relation to other matters, applications for permits or consents, noise or similar complaints and other matters;
- (g) Ensure swimming pools under construction and portable pools are provided with a compliant pool barrier (fencing);
- (h) Issue Certificates of Compliance, Certificates of Non-Compliance or Pool Barrier Exemption Certificates as appropriate upon application;
- (i) Where a referral is received from a private accredited certifier through Section 22E Notice and a Certificate of Non-Compliance, take appropriate enforcement action to ensure satisfactory pool safety compliance by current owner;
- (j) Undertake enforcement action in accordance with the Act and Council's Compliance and Enforcement Policy. This may include the issue notices and/or directions to

ensure compliance with the Act, issuing penalty notices or taking further action in a Court of competent jurisdiction;

- (k) Issue an Emergency Order as part of the enforcement action if the situation warrants such action to protect public from harm resulting from a non-compliance pool barrier;
- (l) Develop and implement a strategic communication plan for swimming pool compliance which effectively raises awareness, and initiates voluntary compliance;
- (m) Report to the Office of Local Government (OLG) in accordance with OLG guidelines on the number of pool inspections undertaken and the level of compliance with the requirements; and
- (n) Check the swimming pool register at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) to ensure all swimming pools within the LGA that Council is aware of are registered, and take action with regards to all non-registered pools; and
- (o) Charge a fee for inspections undertaken, as appropriate, in accordance with Council's adopted Fees and Charges.

## Definitions of Terms

Note: Many of the below definitions have been taken from legislation and while they are current at the time of Policy adoption they may be altered by subsequent legislation amendments. Where enforcement action is required, Council will refer to and rely upon the current definitions contained within legislation.

Term	Meaning
Accredited certifier	An Accredited Certifier is an individual who is registered with the NSW Building Professionals Board for performing swimming pool inspections.
Certificate of Compliance	A Certificate of Compliance is evidence that a swimming pool meets the requirements of the Swimming Pools Act 1992 and the Swimming Pools Regulation 2008. A Certificate of Compliance is valid for three years.
Certificate of Non-Compliance	A Certificate of Non-Compliance is evidence that a swimming pool does not meet the requirements of the Swimming Pools Act 1992 and the Swimming Pools Regulation 2008. A Certificate of Non-Compliance issued at the owners request is valid for one year.
Direction	An authorised person acting under the delegation of a local authority may issue a Direction against the premises with a swimming pool under section 23A of the Swimming Pools Act 1992. This directs the owner to take, within reasonable time as specified in the direction, such measures to

	ensure that the swimming pool or premises comply with the requirements of the Swimming Pools Act 1992.
Notice of Direction	Written Notice of Councils intention to issue a Direction against the premises within 14 days unless the terms of the Notice are completed.
Pool Barrier Exemption	A certificate issued under the Act to exempt a swimming pool from any or all the requirements of the Act. An Exemption Certificate is granted subject to any conditions Council deems appropriate.
Portable pool	A structure that is designed as a swimming pool but is not a permanent structure
Occupation Certificate	An Occupation Certificate is issued under the Environmental Planning and Assessment Act 1979 and authorises the construction, commissioning and use of the swimming pool.
Spa Pool	<p>Defined by the Act as:</p> <p>Includes any excavation, structure, or vessel in a spa pool, flotation tank, tub, or the like.</p> <p>Burwood Council does not consider swim spas as spa pools.</p>
Swimming Pool	<p>Defined by the Swimming Pool Act 1992 as:</p> <p>an excavation, structure or vessel –</p> <p>(a) that is capable of being filled with water to a depth greater than 300 millimetres, and</p> <p>(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,</p> <p>(c) 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.</p>

## Review

Corporate policy is to be reviewed within four years unless governed by legislation.

## Responsibilities

Position	Responsibility
Executive	Provide leadership in complying with the legislative requirements and this Policy. Approve resources to develop, implement and review this Policy.
Director City Strategy	Provide leadership in understanding and complying with the legislative requirements and this Policy. Allocate appropriate resources to assist Council in complying with this Policy.
Manager City Development	Provide leadership in understanding and complying with the legislative requirements and this Policy. Allocate appropriate resources to assist Council in complying with this Policy.
Executive Building Surveyor	Provide leadership in understanding and complying with the legislative requirements and this Policy. Provide subject matter expertise, technical knowledge to assist Council in complying with this Policy.
Community Safety Staff	Assist staff and the community in understanding and complying with the legislative requirements and this Policy. Undertake reviews of this Policy as instructed. Implement this Policy.
All Staff	Assist the community in understanding and complying with this Policy. Comply with this Policy.

## Contact

Manager City Development and Executive Building Surveyor