

Swimming Pool Certificates of Compliance

Sale or Lease of a Property with a Swimming Pool
Frequently Asked Questions

Q1. How do I check my swimming pool or spa is registered?

The owners of all residential properties with a swimming pool were required to register their swimming pools on the NSW Swimming Pool Register by 29 October 2013. If you have not done so, you can access the register at www.swimmingpoolregister.nsw.gov.au.

Swimming pools must be registered before you can apply for a *Certificate of Compliance*.

Once registered, you can download a *Certificate of Registration*. Penalties apply for unregistered swimming pools and spas. Commitment

Q2. I have a house with a pool that I want to rent out. What are my obligations?

As of 29 April 2016, you will need to obtain a *Certificate of Compliance* before you can lease the property. A copy of the Certificate of Compliance or relevant *Occupation Certificate* (issued within the past 3 years) and certificate of registration will need to be provided to the tenants upon entering into any new residential tenancy agreement. This is to ensure that the property is safe for your tenants.

Q3. I have a swimming pool or spa and want to sell my property?

As of 29 April 2016, new laws apply to the sale and lease of properties with a swimming pool in NSW. Properties to be sold with a pool must have attached to the contract for the sale of land:

- A Certificate of Registration (refer to Q1); and
- A swimming pool barrier Certificate of Compliance; or
- A relevant Occupation Certificate; or
- A Certificate of Non-Compliance.

If a Certificate of Non-Compliance has been issued for the pool, the purchaser will have up to 90 days from the date of settlement to fix any areas of non-compliance, unless the certificate has identified that the swimming pool poses a significant risk to public safety. In which case the necessary works must be carried out sooner, and as may be directed by Council.

This process aims to facilitate to the sales process only. The Certificate of Non-Compliance must be attached to the contract for sale of the land and the purchaser must make the swimming pool barrier compliant within 90 days of settlement, or sooner if directed by Council.

Q4. How long is a certificate of compliance valid?

A *Certificate of Compliance* is valid for a period of three years, unless a subsequent inspection finds the barrier to be non-compliant, in which case Council may issue a Notice or Direction to comply.

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Q5. How long is a certificate of compliance valid?

A *Certificate of Compliance* is valid for a period of three years, unless a subsequent inspection finds the barrier to be non-compliant, in which case Council may issue a Notice or Direction to comply.

Q6. How long is a certificate of non-compliance valid for?

A Certificate of Non-Compliance can be valid for up to 12 months. However, if the property is sold within this period, the necessary work must be carried out to make the swimming pool barrier compliant within 90 days of the date of settlement or as directed by Council.

The certificate of non-compliance is only applicable to the sale of a property with a pool and a house will generally sell well before 12 months. The 12-month validity period is to ensure that vendors cannot attach a certificate that may no longer be an accurate reflection of the level of non-compliance. Responsibility for pool compliance remains with the owner of the property at the time.

Q7. What is a relevant occupation certificate?

An Occupation Certificate gives approval to use or occupy a building (or other structure i.e. a swimming pool) in conjunction with the development consent or a complying development certificate. An Occupation certificate verifies that the subject building is compliant with the BCA and Australian Standards. A Certificate of Compliance is not required to be obtained if a valid relevant Occupation Certificate has been obtained in relation to the swimming pool within the past 3 years.

Q8. I'm not planning to sell or lease my house. Do i still need to obtain a certificate of compliance?

Under the *NSW Swimming Pools Act 1992 (Act)*, pool owners have a responsibility to ensure that their pool barrier is maintained in accordance with the Act and applicable standard. If you are unsure whether your pool barrier is compliant, you should arrange for the local council or an accredited certifier to inspect your pool barrier. If your pool barrier is compliant, you will be issued with a *Certificate of Compliance*. If not, you will be given a written notice detailing pool barrier defects and required remediation works to bring the barrier into compliance.

Q9. How do i apply for a certificate of compliance? What are my options?

You can either engage Council or alternatively, a category A1, A2, A3 or E1 accredited certifier, registered with the NSW Building Professionals Board. Details of accredited certifiers are available on the NSW Swimming Pool Register website at www.swimmingpoolregister.nsw.gov.au. An accredited certifier also has the authority to issue Notices directing pool owners to carry out works to comply with pool safety requirements and the certifier may also refer unresolved compliance matters to Council for appropriate action.

Q10. How do i apply for a certificate of compliance with council? What is the cost?

You will need to complete the [Certificate of Compliance \(Application Form\)](#) and lodge the application along with the associated \$250.00 (combined inspection) fee with Council. Once Council has received your application, a Council Officer will contact you to arrange a suitable time for us to inspect your swimming pool or spa barrier. You must ensure that you have owners consent and the NSW Swimming Pool Registration Number before lodging the application. Fees for applications made to an Accredited Certifier are determined by the individual certifier.

Q11. What about multi-unit residential developments?

The sale and lease provisions do not apply to properties with more than two lots and shared pools, such as tourist facilities, hotels/motels and multi-unit residential developments in strata complexes or community schemes. These pools are subject to a mandatory inspection by Council at least every 3 years. The owners' corporation (or body corporate) is responsible for ensuring such pools are safe and compliant with the Act and relevant standards.

Q12. What about portable/inflatable swimming pools?

Any swimming pool capable of being filled to a depth of 300mm or more must be surrounded by a fully compliant child-resistant barrier separating the swimming pool from any residential building or place adjoining the premises. If the swimming pool holds more than 2000L in capacity, it is not classed as *exempt development* (under the SEPP 'Exempt and Complying Development' Codes 2008) and would require development consent or a complying development certificate to be obtained prior to installation.

Failure to obtain the required approvals may result in the issue of a Direction by the Council which orders the owner/occupier to remove or demolish the swimming pool. Council may also issue a penalty notice or take legal proceedings if a swimming pool is installed without the required approvals or provided with compliant child-resistant barrier. You are encouraged to obtain advice from Council before you purchase any 'over the counter' portable or inflatable swimming pool to ensure you get the correct advice.

Q13. If my swimming pool fence does not meet the requirements, what action may council take?

If a pool is inspected by Council and the pool barrier is found to be non-compliant with the pool safety requirements, the Council will provide an owner with a list of requirements to achieve compliance and may issue a Notice of Intention to serve a Direction in accordance with the provisions of the Act. Should the work remain outstanding, a formal Direction may be issued, directing the owner to undertake the required actions within a specified time frame. The owner of the property has the right of appeal against Council's Direction, to the Land and Environment Court.

Q14. What are the penalties for non-compliance?

The owner of a swimming pool may be liable for a penalty of up to \$5,500 for non-compliance with the pool safety requirements in the Act. On-the-spot fines of up to \$550 can also apply.

Q15. How can i make my pool safer?

Research shows that inadequate pool barriers and lack of supervision are the most common contributors to drowning in backyard pools. This can include people leaving the gate open, or pool barriers not being maintained in good condition.

Pool owners and occupiers of properties with a swimming pool are responsible for ensuring that their barrier is safe and complies with current legislation.

- Always supervise children around pools. A pool barrier is no substitute for responsible supervision.
- Always keep your fence, gates, doors and window locks secure and in good condition. Regularly check your pool barrier.
- Always keep your gate and door latches self-closing mechanisms in good working order.
- Always close your gates and doors when they are not in use. Never prop them open.
- Never leave climbable objects near the pool barrier.
- Always keep climbable trees, shrubs and vines trimmed and well away from the pool barrier.
- Teach your children to swim from an early age.

Undertake resuscitation (CPR) training for emergency situations.

Q16. What are some of the general requirements for swimming pool barriers or fencing?

In most cases, the following general requirements apply:

- Swimming pools are required to be surrounded by a child-resistant barrier (i.e. pool fence) that separates the swimming pool from any residential building (i.e. dwelling, granny flat, garage, outdoor building) situated on the premises and from any place (whether public or private) adjoining the premises.
- Internal pool fencing (i.e. located between the pool and any residential building on the lot) shall not be less than 1.2m in height, measured from the outside.
- Boundary fences which form part of the pool barrier being not less than 1.8m in height measured from the inside (pool side) of the fence, with no climbable items within the top 900mm component (on the inside).
- Swimming pool access gate/s must open outward away from the pool area and must be self-closing and self-latching at all times and from any position (including resting on the latching device).
- The release point of the latch must be not less than 1500mm above finished ground level. Alternatively, the latch must be located in such a position that is not less than 150mm from the top of the barrier or any handhold. Appropriate shielding to a radius of 450mm must be provided and no gaps greater than 10mm between shielding devices.
- The gate must never be propped open.
- The gap between all vertical components in the fence must be less than 100mm.
- The gap beneath the fencing panels must be less than 100mm.
- The pool fence must be clear of any objects such as BBQs, trees, rocks, shrubs and deckchairs that could help a small child climb over the fence.
- There must be an appropriate warning sign, including details of resuscitation (CPR) techniques, in the immediate vicinity of the pool area and which can be easily read from a distance of 3 metres.
- BBQ's, clothes line, cabanas or other similar structures are not to be located within the swimming pool area.
- Swimming Pools and Barriers which are altered or rebuilt and/or any changes to access to the swimming pool are required to comply with the relevant provisions of the Act. This may require the pool barriers to be upgraded to comply with the current Standards.

Please Note: Different requirements may apply depending on the time of installation of the pool and whether or not the barrier has been substantially rebuilt or altered. A full assessment is required to determine which requirements apply.

FOR FURTHER INFORMATION

Please visit the Office of Local Government [Swimming Pools and Spa Pools Safety Page](#).

For technical enquiries regarding fencing requirements, please contact Council's Swimming Pool Compliance Officer on 1300 421 580 or an accredited certifier.