



Junee Shire Council

**DRAFT SWIMMING
POOL INSPECTION
PROGRAM**

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PART 1: INTRODUCTION

With approximately 200 swimming pools in the June Shire, pool safety is a big community issue. Backyard swimming pools can be great fun, however, they are a significant responsibility for the landowner and occupier as drowning of young children can happen quickly and silently.

While fencing and barriers may help reduce drowning of young children in swimming pools, there is no protection or safety equipment that can replace adequate supervision of children by a parent or another responsible adult. Research on child drownings in backyard swimming pools indicates that the most common contributing factors are inadequate fenced pools and human error (for example: people leaving the gate open or fences not being maintained in good condition).

It is the responsibility of the owner/occupier to keep the pool fence in a state of good repair, and ensure all gates providing access to the swimming area are maintained so they are self-closing and self-latching. Pool users and owners should be aware that if there is a death or injury in a pool, legal liability may fall on the person responsible for the pool at the time, even if a safety fence is installed.

Early in 2013 the NSW government introduced new laws affecting swimming pools which emphasise owners' responsibilities and improved safety. The new laws resulted in a number of changes to the relevant Act including the creation of a state-wide web-based swimming pool register, increasing the roles and responsibilities of Council in relation to swimming pool inspections and the issuing of Certificates of Compliance.

Owners of swimming pools and spas must register their details on the NSW Government register www.swimmingpoolregister.nsw.gov.au which is free of charge. There are provisions in the legislation to fine owners who fail to register their swimming pool.

PART 2: SCOPE

This program applies to all swimming pools and spa pools within the June Local Government Area.

Under Section 22B(1) of the Act, Council is required to develop and adopt a program for the inspection of swimming pools in its area to ensure compliance with the requirements of Part 2 of the Act "Access to swimming pools".

Section 5 of the Act also required the Council to;

- a) promote the registration of swimming pools within its area;
- b) promote awareness of the Act in relation to swimming pools; and to
- c) investigate complaints about breaches.

For the purpose of the Swimming Pool Act a '**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.

Importantly, portable and/or inflatable swimming pools or children wading pools that are capable of being filled with water to a depth greater than 300 millimetres meet the definition of ‘swimming pool’ under the Act and therefore temporary pool owners are subject to the same legislative requirements and obligations as those who have permanently installed pools.

PART 3: RELEVANT LEGISLATION & STANDARDS

The legislation, regulations and standards that apply to this Swimming Pool Inspection Program include:

- Swimming Pools Act 1992
- Swimming Pools Regulation 1998 (repealed)
- Swimming Pools Regulations 2008
- Part 3.9.3 of the Building Code of Australia
- Australian Standards
 - AS 1926.1 – 1986
 - AS 1926.1 – 2007
 - AS 1926.2 – 2007
 - AS 1926.1 – 2012
 - AS 1926.2 – 2012

Each legislative article and standard specifically related to a swimming pool is dependent on when the pool was installed or constructed. The following table indicates what standard applies to which pools. It is important to note the relevant standard is when the swimming pool was constructed.

Date constructed	Legislative Reference	Aspect Controlled	Applicable Standard
Prior to 1 August 1990	Act: s8 (1) (a) and 8(2) Reg: cl22 and 6	Child Resistant Barrier not required to separate pool from residential building (restricted access applies)	AS 1926-1986
1 August 1990 to 31 August 2008	Act: s7(1) (a) and (b)	Child Resistant Barrier not required to separate pool from residential building (restricted access applies)	AS 1926.1 – 2007 AS 1926.2 - 2007
1 September 2008 to 30 April 2011	Act: s7(1) (a) and (b)	Child Resistant Barrier required to separate pool from residential building	AS 1926.1 – 2007 AS 1926.2 - 2007
1 May 2013 to Current Date	Act: s7(1) (a) and (b) Reg: cl 5	Child Resistant Barrier required to separate pool from residential building	Building Code of Australia. AS 1926.1-2012 AS 1926.2-2012

It is also important to note that the Act provides exemptions in certain circumstances for existing swimming pools situated on small or large rural properties. These exemptions continue to apply unless the swimming pool has undergone significant alteration or rebuilding. Council can however, still require the upgrading of these pools if the requirements of the Act are not being complied with.

PART 4: REGISTRATION OF SWIMMING POOLS

All swimming pool owners must register their swimming pool on the NSW state-wide web-based swimming pool register (www.swimmingpoolregister.nsw.gov.au). Self-registration of swimming pools is free via the internet. The *NSW Swimming Pools Regulation 2008* prescribes a statutory fee for Council to register a pool on behalf of an owner who does not have access to the internet. However, Council has decided to provide this service free of charge for new and existing swimming pool owners in the interest of ensuring registration of all swimming pools to which this Act applies within the June LGA. A swimming pool registration application form is available from Council's website (www.june.nsw.gov.au) or Council's office.

When registering a swimming pool, the property owner must identify the address of the property where the pool is located, the type of premises (eg. residential or tourist accommodation etc.) and the type of pool (eg. in ground or aboveground).

It is an offence under the Act to have an unregistered swimming pool. There are provisions in the legislation to fine owners who fail to register their swimming pool.

PART 5: THE INSPECTION PROGRAM

In accordance with Section 22B of the Act, Council has developed this inspection program based on Council and community affordability and risk.

The primary objectives of the June Shire Council Swimming Pool Inspection Program are:

1. Council will make provision for the inspection, at least once every three years, of any swimming pool situated on premises on which there is Tourist and Visitor Accommodation or more than two dwellings.
2. The inspection of a swimming pool in paragraph (1), above, is not required within three years from the date of issue of a valid Certificate of Compliance in respect of the swimming pool or a relevant Occupation Certificate that authorises the use of the swimming pool.
3. Council may carry out an inspection of a swimming pool under Section 22C of the NSW Swimming Pools Act 1992 where the owner of the premises on which a swimming pool is situated in Council's area requests Council to inspect the swimming pool.
4. Council must carry out an inspection of a swimming pool in its area under Section 22C of the NSW Swimming Pools Act 1992 and must carry out that inspection within a reasonable time, if the request to Council is in writing and states that the inspection is required to enable the sale or lease of the premises or part of the premises on which the swimming

pool is situated. A reasonable time is within 10 business days after Council receives a request.

5. Council must determine applications for swimming pool Certificates of Compliance under the provisions of the section 22D.
6. Council may undertake random inspections of any swimming pool situated in Council's area at any time.
7. Council must investigate a complaint made to it in writing that alleges a contravention of the NSW Swimming Pools Act 1992 in accordance with that Act.

Part 5.1: Mandatory Inspections

Under Section 22B(4) of the Act, the Council must inspect swimming pools in its area in accordance with this program.

Part 5.2: Complaints and Compliance Matters

Under Section 29A of the Act, Council must respond to complaints. All complaints received in writing must be investigated within 3 days of the complaint being received.

Council will investigate all rectification notices for swimming pool compliance matters that pose a significant risk to public safety. Rectification notices for matters other than significant risk to public safety will be investigated.

Part 5.3: Tourist/Visitor Accommodation and Multi-Unit Developments

All tourist and visitor accommodation buildings and multi-unit premises (ie. more than two dwellings) within the local government area that have a swimming pool installed will be inspected once every three years or upon receipt of any complaint. These buildings include motel/hotel accommodation, serviced apartments, boarding and guest houses, bed and breakfast, backpacker accommodation and the like.

Alternatively, premises that have a current swimming pool Certificate of Compliance will not require an additional inspection but will remain subject to any complaint investigation.

Part 5.4: Certificates of Compliance

A Certificate of Compliance issued by Council certifies that the pool is registered and complies with the requirements of the Act, Regulations and relevant Australian Standard. A Certificate of Compliance is valid for three years. It is important to note, however, that the swimming pool owner can be subject to Council inspection and legal action where the swimming pool and/or the child resistant barrier is not maintained during the three-year validity period.

Council is required under Clause 17 of the Regulation to undertake an inspection of a swimming pool associated with a property being sold or leased within 10 days after receiving a Certificate of Compliance Application, subject to suitable access being provided.

Application forms for a Certificate of Compliance are available from Council's website (www.june.nsw.gov.au) or administration office. A completed application form is submitted to

Council and the required fee paid. Council officers will undertake an inspection of the swimming pool and provide a written notice as to the result of the inspection. In the case of defective matters requiring a reinspection, an additional fee applies.

Certificates of Compliance will be issued for all new swimming pools and spa pools at the same time an Occupation Certificate is issued for the development at no additional cost.

Part 5.5: Properties Containing Swimming Pools Sale or Lease Requirements

It is a mandatory requirement of the State Government legislation, effective from 29th April 2014, that a property cannot be leased unless a valid Certificate of Compliance has been issued for the swimming pool or sold unless a valid Certificate of Compliance or Certificate of Non-Compliance has been issued for the swimming pool.

PART 6: SWIMMING POOL EDUCATION & AWARENESS

Section 5 of the Act requires Council to promote awareness of the requirements of Swimming Pools Act and associated Australian Standards. Council has over the years implemented swimming pool education campaigns aimed at increasing the awareness of the community regarding pool safety and legislative requirements.

Swimming pool safety and awareness continues to remain a part of Council's Swimming Pool Inspection Program. Education materials, information brochures, multimedia advertisements and website information will continue to be used by Council, the State Government and the Royal Lifesaving Society.

Clause 21 of the Regulation requires Council to ensure that certain swimming pool related documents are made available and accessible to the community. These include the relevant Australian Standards (e.g. AS1926.1-1986, AS1926.1-2007, AS1926.2-2007, AS1926.1-2012) (hard copies only), and The Building Code of Australia (electronic copy only).

These documents are available for free public viewing at Council administration offices during normal business hours. Due to copyright laws, Council will not allow these documents to be taken away from the building, printed or copied.

The Australian Standards are available for purchase from SAI Global at www.saiglobal.com

The Building Code of Australia can be viewed or downloaded free of charge from the Australian Building Codes Board at www.abcb.gov.au

The Australian Resuscitation Council have the Cardiopulmonary Resuscitation Guideline (Guideline 8) available for viewing at www.resus.org.au. Resuscitation posters are available for purchase at the Council office.

PART 7: REPORTING

It is a requirement of the Section 22F of the Act that Council include in its Annual Report under Section 428 of the Local Government Act 1993 information in relation to swimming pool inspections undertaken by Council.

PART 8: PROGRAM REVIEW

Every 12 months the program will be subject to an internal review to enable amendments, modifications and the like to be incorporated into the program as required by changes to relevant legislation and/or standards or based on the needs and expectations of Council or the community. A comprehensive review of the program shall be conducted every five years and undertaken in accordance with the consultation strategy

PART 9: SWIMMING POOL INSPECTION PROGRAM – COMMUNITY ENGAGEMENT

Clause 16 of the *NSW Swimming Pools Regulation 2008* requires Council to establish and implement a strategy for engagement with the local community when developing a program for the inspection of swimming pools in its area. This has been and will continue to be done on an ongoing basis in accordance with the consultation strategy.

PART 10: COMMUNITY CONSULTATION STRATEGY

OBJECTIVES

The main objectives of this strategy are to:

- Inform and educate the community on private swimming pool barrier safety and the requirements under the *NSW Swimming Pools Act 1992*.
- Investigate and report on compliance statistics within the Junee Shire LGA and use this data to drive future education and awareness campaigns.
- Provide a mechanism for the development and adoption of this and subsequent future revised Swimming Pool Inspection Programs.
- Meet Councils obligations under Clause 16 of the *NSW Swimming Pools Regulation 2008*.

COMMUNITY ENGAGEMENT

To achieve positive engagement with the community Junee Shire Council may employ a number of methods to promote and publicise the desired message and encourage community feedback.

These methods include but are not limited to:

- Direct mail out of information fliers and letters to property owners listed on the NSW Swimming Pool Register.
- Local media advertising and press releases.
- Council website and social media pages.

- Face-to-face inspections and meetings with pool owners either onsite, in office or via group presentations.
- School Based and Community Workshops

SWIMMING POOL COMPLIANCE SURVEYS

To evaluate the effectiveness of Council's Community Consultation Strategy, and any education and awareness campaigns or compliance audits, Council may undertake random inspections of private swimming pools to ascertain their level of compliance with the Act.

Property owners will not be charged an inspection fee if their pool is visited during a compliance survey. Any non-serious areas of non-compliance found during these survey inspections will be conveyed to the property owner as an information exercise.

REPORTING

Council has an obligation to report information regarding swimming pool inspections in its Annual Report. Through this process consultation and engagement activities such as education campaigns and compliance surveys undertaken throughout the year will become publicly available.