

ADVISORY NOTICE

BUILDING

07/13

Advisory Notices are issued to assist in the interpretation of the Development Act 1993

December 2013

TECHNICAL:

Swimming pool safety:

Council inspections of new swimming pools

The purpose of this Advisory Notice is to advise of measures now being implemented to help to further improve the safety of swimming pools using the current provisions of the Development Act 1993. The measures are the first stage of implementing the outcomes resulting from consultation on the *Proposals to improve the legislative framework for swimming pool safety* discussion paper in April and May of 2013. The amendments were published in the Government Gazette on 19 December 2013.

From **1 January 2014** amendments to the *Development Regulations 2008* will require:

- The builder or owner to notify their local council when the construction of a new swimming pool is completed, before it is filled with water. Councils will not be required to inspect the swimming pool at this stage.
- The builder or owner to notify their local council when construction of the approved swimming pool child-safety barriers has been completed.
- A new expiation penalty for failure to give either or both of the above notifications.
- Documentation submitted for approval of a new swimming pool, under Schedule 5, to include details of its associated safety barriers and other safety features to ensure that building rules consents issued for new swimming pools include the assessment and approval of all required safety features and barriers.
- A new lodgement fee of \$170, payable on all new development applications involving a swimming pool. The new fee is to compensate councils for the costs of inspecting new swimming pools.
- Completion of the approved swimming pool child-safety barriers within two months of completion of the swimming pool. This amendment recognises that it's not always possible to have the permanent approved barrier in place at the time of filling the pool with water. Regulation 83B requires that a person must not fill the pool with water unless the pool is enclosed by a barrier that complies with the *Building Code*. In effect, this allows the use of a temporary barrier that complies with the Building Rules including AS 1926.1. Councils will not be required to inspect temporary barriers, as it is recognised that the council or private certifier would not have conducted an assessment of the temporary barrier. In consultation with the industry it has been determined that two months is a reasonable amount of time for the permanent approved barrier to be established. It is also appropriate to limit the amount of time that a temporary barrier is in place.

Child-safety barriers will be included in Schedule 1A, along with swimming pools so that the associated safety barriers are also excluded from requiring development plan consent. This will correct an anomaly whereby a swimming pool is 'building rules consent only' but development plan consent is still required for the associated child-safety barriers.

From **1 April 2014** amendments to the *Development Regulations 2008* will require councils to have a swimming pool inspection policy for all new pools (for which an application for Development Approval is lodged from this date), upon completion of the permanent, approved child-safety barriers. Each council's inspection policy must specify inspections of at least 80% of all new swimming pools within its council area within two weeks of completion of the child-safety barrier, and the remaining 20% within two months.

Proposals for the remaining outcomes of the discussion paper are being prepared. These include:

- Regular inspections of all swimming pools
- Registration of all swimming pools
- All swimming pool child-safety barriers to comply with current safety standards within five years and, or at change of property owner or tenant (whichever occurs first)
- Mandatory installation of warning notices/CPR signs to be displayed near swimming pools

Information about requirements for swimming pool safety is available on the SA Government website at www.sa.gov.au/swimmingpools

Further information

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QUESTIONS AND ANSWERS**What is being done about the other proposals from the Discussion Paper?**

Head power exists in section 71AA of the Development Act 1993, which enabled the regulations to require council inspections of new swimming pools. However, head powers do not exist for proposals requiring regular inspections of all swimming pools (both new and old), registration of all swimming pools, and a requirement for all child-safety barriers to comply with one set of rules. Therefore, it is necessary to prepare a Bill to amend legislation, or for new legislation. Work is proceeding on the Bill and Regulatory Impact Statement.

It is envisaged that these proposals will be presented to the Government in 2014.

How much is the new inspection fee, when must it be paid, and who collects the fee?

The new fee is \$170 and will be indexed annually along with other fees in Schedule 6 of the Development Regulations. It will be payable to the council on all new development applications containing a swimming pool lodged from 1 January 2014. It is for the purpose of compensating councils for the costs of inspecting all new swimming pools and required safety features.

If the application is for a swimming pool only, the lodgement fee component under Schedule 6, 1(1)(c) will not be payable.

If the application is for a swimming pool and also involves other building work requiring building rules consent, and the total development cost exceeds \$5000 – then the lodgement fee component under Schedule 6, 1(1)(c) will be payable as well as the new fee for swimming pool inspections.

What percentage of new swimming pools will councils be required to inspect?

In accordance with section 71A of the Development Act, each council's inspection policy must include the following inspection rates:

- 80% of all swimming pools and/or swimming pool child-safety barriers approved over the course of the year, within two weeks of completion of the child safety barrier.
- 100% of all swimming pools and/or swimming pool child-safety barriers approved over the course of the year, within two months of completion of the child-safety barrier.

Will councils also be required to inspect existing swimming pools?

No. The regulation amendments are about council inspections of new swimming pools upon completion of the permanent, approved child-safety barriers.

Inspections of existing swimming pools will be addressed in legislative proposals in 2014.

Why has a period of two months been allowed from completion of the swimming pool to completion of the permanent, approved child-safety barriers?

The amended regulations will require that the permanent, approved swimming pool child-safety barriers must be completed within two months of completion of the swimming pool. This amendment recognises that it's not always possible to have the permanent approved barrier in place at the time of filling the pool with water. Regulation 83B requires that a person must not fill the pool with water unless the pool is enclosed by a barrier that complies with the *Building Code*. In effect, this allows the use of a temporary barrier that complies with the Building Rules including AS 1926.1.

Councils will not be required to inspect temporary barriers, as it is recognised that the council or private certifier would not have conducted an assessment of the temporary barrier as part of the Building Rules assessment. In consultation with the industry it has been determined that two months is a reasonable amount of time for the permanent approved barrier be established. It is also appropriate to limit the amount of time that a temporary barrier is in place.

Will councils be required to inspect the completed swimming pool after the first notification – prior to filling the pool with water?

No. The Council will not be required to inspect at this stage. The purpose of this notification is simply that the Council knows when the swimming pool is complete and is to be filled with water. This is the start of the maximum two-month period during which the permanent, approved child-safety barriers must be completed.

Can separate staged building rules consents be issued for the swimming pool and the child-safety barriers?

No. Schedule 5 will require the applicant to submit details of the proposed child-safety barriers along with the documentation for the swimming pool.

Will swimming pool child-safety barriers be included in Schedule 1A of the Development Regulations ‘Development that does not require development plan consent’?

Yes. Child-safety barriers will be included in Schedule 1A, along with swimming pools so that the associated safety barriers are also excluded from requiring development plan consent. This will correct an anomaly whereby a swimming pool is ‘building rules consent only’ but development plan consent is still required for the associated child-safety barriers.

What documentation must be submitted with an application for building rules consent for a swimming pool?

Schedule 5 in the Development Regulations will require that documentation submitted for approval of a new swimming pool must include details of the associated child-safety barriers and other safety features to ensure that building rules consents issued for new swimming pools include the assessment and approval of all required safety features and barriers.