Environmental Specification
Swimming Pools 2012
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1. Introduction

This Environmental Specification contains requirements relating to the installation or renovation of pools and changes to pool child-resistant barriers. The Specification should be read in conjunction with Sutherland Shire Local Environmental Plan 2006 (SSLEP2006) and Sutherland Shire Council Development Control Plan 2006 (SSDCP2006).

The Swimming Pools Act 1992 and the Swimming Pools Regulation 2008 apply to all types of pools (both indoor and outdoor) on premises where there is a residential building, a moveable dwelling (such as a caravan), a hotel or a motel.

SSLEP06 set requirements for new development including those for height, building density and landscaped area. SSLEP06 also sets a foreshore building line which sets further restrictions on development in foreshore areas.

SSDCP2006 seeks to ensure that pool location and design maximises safety and minimises the impact upon the environment and preserves existing trees. Controls relating to the development of pools and associated fencing can be found in Chapter 3 – Urban Design. Additional controls may apply.
2. **Swimming Pool Information**

**Swimming Pool:**

An excavation, structure or vessel:

- that is capable of being filled with water to a depth of 300 millimetres or more, and
- 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.

- Swimming Pools Act 1992 definition

All pools, including prefabricated pool, require approval prior to installation. The approval authority is required to inspect and approve the child-resistant barrier system prior to filling the pool with water. Council is required to be notified of the installation of a pool and provided with a satisfactory inspection report for the pool child-resistant barriers. These requirements may not apply to portable pools being; a pool that does not require any construction and is emptied immediately after use, such as a shell pool or toddler pool.

Some works including boundary fence construction may not require approval, but must still meet the requirements of the *Swimming Pools Act 1992* and *Swimming Pools Regulations 2008*.

**2.01 Swimming Pools Act and Regulations**

Pool Safety legislation has been developed to enhance the safety and security of children under 5 years old around private pools. Safety and security measures, including signage, access and barriers (fencing) for pools are required to be complied with under the provisions of the *Swimming Pools Act 1992* and *Swimming Pools Regulation 2008*.

The *Swimming Pools Act 1992* puts the responsibility of pool safety on the owner. The owner must ensure that the pool is at all times surrounded by a complying child-resistant pool safety barrier and ensure that pool safety barriers are maintained in a good state of repair as an effective and safe barrier restricting access to the pool.

The *Swimming Pools Regulation 2008* states that all new pools, fencing and associated works must be in accordance with the Building Code of Australia (BCA).
2.01.01 Outdoor Pool Barrier Location

Pools are required to be at all times surrounded by a child-resistant barrier that separates the swimming pool from any *residential building*, movable dwelling, hotel or motel situated on the premises and from any place (whether public or private) adjoining the premises.

This applies to
- all new pools, pool renovations or alterations
- existing pools where the pool barrier or means of access to the pool is altered or rebuilt

A door must not be used as part of a barrier for an outdoor pool.

*Residential building* includes any structure (such as a garage, shed, boatshed, clothesline, barbeque, entertainment structure) that is ancillary to the residential building.

This does not include a shed that is ancillary to a pool only and the primary purpose of which is to store equipment that is used in connection with the swimming pool.
2.01.02 Additional requirements for movable dwellings, hotels or motels
Child-resistant barriers concerning movable dwelling, hotel or motel are to be located immediately around the swimming pool, and the pool area is not to contain any structure apart from the swimming pool and other structures (such as diving boards and pool filtration plants) that are wholly ancillary to the swimming pool.

2.01.03 Existing pool exemptions
Some exemptions to barrier controls apply for existing pools. These exemptions primarily relate to the use of child-safe/child-resistant doors as a pool barrier. Please speak to Council’s Pool Safety Officer to determine if your proposed works will comply.

2.02 Requirements in the Building Code of Australia (BCA)
The Building Code of Australia (BCA) sets nationwide controls for swimming pools and fencing to seek to safeguard young children from drowning or injury in a swimming pool. Many of the requirements refer to Australian Standards, denoted by AS and a number.

Generally the BCA requires a barrier be provided to a swimming pool and which must:

- Be continuous for the full extent of the hazard;
- Be of a strength and rigidity to withstand the foreseeable impact of people;
- Restrict the access of young children to the pool and the immediate pool surrounds having regard to:
  - the height and rigidity of the barrier
  - any horizontal climbable members
  - openings and footholds in the barrier
  - the operation of self-closing and latching gates;
Have any gates and doors fitted with latching devices not readily operated by young children, and constructed to automatically close and latch.

The BCA swimming pool provisions are deemed to be satisfied where pool safety barriers are installed in compliance with AS1926 part 1 and part 2 subject to the following variations:

- Child-resistant doors must not be used in a barrier for an outdoor pool.
- A side hung door forming part of a barrier for an indoor pool must open outwards from the pool area.
- The walls of an above ground pool, (including inflatable pools), are not considered to be an effective pool safety barrier.

**Gate units for private swimming pools**

The BCA requires that the operation of self-closing and latching gates is to be in accordance with AS2820.

**Natural ventilation**

Restricting the opening of a window or having fixed pane windows need to ensure that this does not compromise the natural ventilation requirements of the BCA. Generally natural ventilation is provided by windows, doors which can be opened to a size not less than 5% of the floor area of the room. Where windows are to form part of the pool safety barrier they can be fitted with permanently fixed security mesh or grills thus satisfying both pool safety and ventilation requirements.

**Stair landings**

Where there are:

- stairs leading to a pool gate on the outside of the pool, and
- more than 3 stairs or a rise/fall of more than 570 mm

a 750 mm level landing is required to be provided to enable the gate to safely open outwards form the pool area.
2.03 Child-Resistant Barriers

Where the walls of the dwelling are used as part of a child–resistant barrier, no openings are permitted unless they are fixed glass panels, or an openable window with a permanently fixed metal mesh or grill over the openable area of the window.

A shed used to house pool filter equipment, pool chemicals and the like solely associated to the pool operation/ use is permitted within the pool area.

A free standing pergola, cabana, and other such small shade structure solely associated to the use of the pool and not the residential dwelling, is permissible within the pool area.

2.03.01 General Child-Resistant Barrier Requirements

Outdoor pools must be surrounded by a child-resistant barrier that separates the pool from any residential building situated on the premises and from any adjoining public or private properties. Subject to the provisions under the Swimming Pools Act, Regulation and BCA the child-resistant barrier must be designed, constructed, installed and maintained in accordance with the Australian Standard 1926.1-2007.

The child-resistant barrier requirements in general are;

- Minimum height 1200mm.
- Minimum 900mm separation between the upper and lower horizontal components to maintain a non-climbable zone.
- Maximum 100mm gap under the fence.
- Maximum 100mm gap in barrier components, allowing for any flex in the component material.
- Non-climbable zone extents from the barrier 300mm into pool area and 900mm outside pool area.
- Boundary fence to be 1800mm in height. See AS1926.1 for details.

Note: AS1926 parts 1 and 2 are currently under review and expected to be amended in early 2012.
2.03.02 Internal Pool Safety Barrier - Open Form Pool Fence

Landscaping, associated lighting and any other fixtures or furniture are **NOT** to intrude into Non-Climbable Zone.
2.03.03 Boundary Fence Pool Safety Barrier - Minimum Height 1800 mm
2.03.04 Barrier for Stairs

<table>
<thead>
<tr>
<th></th>
<th>Non Pool</th>
<th>POOL</th>
</tr>
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<tbody>
<tr>
<td>Barrier Height</td>
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<td>1200mm taken as an Arc</td>
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<tr>
<td>Handrail Height</td>
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<tr>
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Gap includes stair Riser (115 – 190 mm)

2.03.05 Barrier Gates

Summary of pool child-resistant gates general requirements:

- Gates must be self-closing and self-latching, must be closed at all times and require manual unlatching to reopen. The closing device shall be capable of meeting these requirements from a stationary start at an open position having a maximum distance of 150 mm between the gate post and the locking stile of the gate, under the following conditions:
  
  a) under the natural weight of the gate;
  
  b) when a mass of 25kg supported by the top rail is placed at a point not more than 100mm from the outer edge of the locking stile of the gate.

- When gate lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate, or provide a ground clearance greater than 100 mm.

- Gates to open outwards from the pool area.
• Latch release mechanism to be 1.5 metres above the ground & 1.4 metres from highest lower horizontal barrier member, except where a shield is used. If a shield is used the latch is positioned on the pool side near the top of the gate. The shield makes it necessary to reach over the gate to release the latch mechanism.

• Gate width is to be kept to a minimum (no more than 1 metre) to minimise the possibility of the weight of the gate causing the gate to drop with the self-latching mechanism failing.

• Gate to be clear of any obstruction that could hold the gate open.

• Double gates are not acceptable.

• Gates within a boundary fence are not acceptable.

• Barriers should be free of sharp edges, projections and the like, that would constitute a safety hazard.

• The material, design and erection of child-resistant barriers should be such that a reasonable life can be expected with a minimum of maintenance.

For additional design and construction details concerning pool gates see the Australian Standard 1926.1-2007
2.03.06 Balcony Barrier Adjacent to a Pool Area
A balcony shall include a balustrade that complies with AS1926.1 where:
- any part of the balcony floor intrudes into the non-climbable zone of the pool safety barrier, or
- the balcony has direct access (stairs) into the pool area

2.03.07 Balcony Barrier Over a Pool Area
A balcony shall include a balustrade that complies with AS1926.1 where:
- the distance \( h_3 \) from any part of the floor of the balcony to the finished ground level of the pool area is less than 1800 mm, or
- the balcony has direct access (stairs) into the pool area
2.04 Warning/Resuscitation Sign

All types of pools are required to display a Warning/ Resuscitation Sign under, section 17 of the Swimming Pools Act. Part 3 of the Regulations set out the required warning statement that is to be contained within the Resuscitation Sign. Such being:

I. “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”
II. “POOL GATES MUST BE KEPT CLOSED AT ALL TIMES”
III. “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900mm CLEAR OF THE POOL FENCE AT ALL TIMES”,

The required Sign:
- Must be legible from a distance of at least 3 metres
- Must be maintained in a clearly legible condition
- Must be within the enclosed pool area

It is recommended that the resuscitation sign be displayed at the shallow portion of the pool near an open area as this is most likely the area where resuscitation would be carried out.

2.05 Spa Pools

A spa pool is required to be surrounded by a child-resistant barrier and subject to the same requirements as a pool. However an Owner of a spa pool may choose an alternative barrier in the form of a child-resistant lid that is securely fastened to the spa pool by a child-resistant device

The spa child-resistant lid must be capable of being operated/ removed and reinstalled/ locked by a single person so that the restricted access to the spa pool being in place at all times the spa is not in use/ occupied.

Spa pools are taken as small structures approximate 2 x 2 metres in size.

2.06 Indoor Pools

The Owner is to ensure that the means of access to an indoor pool area is restricted as required by the Swimming Pools Act, 1992. The standard for restriction, e.g. child-resistant windows and child-resistant doors are set out in the BCA which makes reference to AS1926.1-2007. The means of access to the indoor pool must be restricted at all times.

Indoor pool access door - Side hung door forming part of a barrier for an indoor pool must open outwards from the indoor pool area.
Glass viewing door insert – it is recommended that glass viewing insert be provided within the door of an indoor pool to enable viewing into the pool area and for safety when the door is being opened.

2.07 Other Barrier Information

Note: AS1926 parts 1 and 2 are currently under review and expected to be amended in early 2012.

2.08 Pool and Barrier Development
When carrying out development work involving a pool or pool barriers confirm with your Principal Certifier as to the requirements to satisfy the Swimming Pools Act prior to carrying out such work.

Your Principal Certifier is the person required to inspect and record pool safety barrier construction/ installation details that are submitted to Council and recorded in Council’s Pool Register at the completion of the works.

In other situations, upgrading an existing pool or applying for a Pool Certificate of Compliance contact Council’s Environmental & Building Compliance Unit – Pool Safety Officer via Council’s Customer Service Centre on 9710 0333.
3 Temporary Fencing

The construction of a pool may present hazards before the pool is complete because of the danger of injury from falling into the excavation or empty pool or the danger of drowning if the excavation/pool contain water (eg. after rain).

Persons having a pool constructed/renovated need to ensure the safety of persons on the property with the swimming pool excavation/swimming pool being provided with suitable fencing to deal with the risk of falling into or drowning in the excavation/pool for the period of time that the hazard exists.

Attention is directed to the existence of State legislation and regulations requiring the temporary fencing of excavations during building. The builder is usually the best equipped party to erect a temporary fence and is generally responsible for the safety of the site. Prospective pool owners should therefore ensure suitable temporary fencing is constructed, and the person who is to construct the fencing should be clearly identified in the pool construction contract. Owing to the method of constructing most pools, the pool builder may be away from the site for periods of several days and thus the person having the pool constructed should ensure that the temporary fencing is not tampered with.

Note: A permanent pool safety barrier must be installed or existing fences brought up to the required standard, before water is put into the pool.

Temporary fencing should provide the same level of protection as that provided by child-resistant fencing.
4 Pool Certificates under the Swimming Pools Act 1992

4.01 Selling or Purchasing a Property with a Pool
Attention is directed to recent changes in the Conveyancing (Sale of Land) Regulation 2010 requiring a warning notice within the contract of sale that the owner of a property on which a swimming pool is situated must ensure that the pool complies with the requirements of the Swimming Pools Act 1992.

A Certificate of Compliance under section 24 of the Swimming Pools Act 1992 is the only available document that an Owner can rely on to ensure that their pool complies. Purchasers and persons acting on their behalf are strongly advised to view a Pool Safety Barrier Certificate of Compliance prior to purchasing any property on which any type of pool is situated.

4.02 Pool Certificate of Compliance
Under section 24 of the Swimming Pools Act 1992 the owner of any premises on which a swimming pool is situated may apply to the council for a certificate of compliance with respect to the swimming pool. If the council is satisfied that the swimming pool complies with the requirements of the Swimming Pools Act 1992, the council must issue to the applicant a certificate to the effect that, as at the date on which it is issued, the swimming pool complies with those requirements.

4.03 Pool Exemption Certificate
Under section 22 of the Swimming Pools Act 1992 the owner of any premises in or on which a swimming pool is situated, or proposed to be constructed may apply to Council for an exemption for the subject pool from all or any of the requirements of the Swimming Pools Act 1992.

For an exemption to be granted the council must be satisfied, in the particular circumstances of the case:
- that it is impracticable or unreasonable
  - because of the physical nature of the premises,
  - because of the design or construction of the swimming pool
  - because of special circumstances of a kind recognised by the regulations as justifying the granting of an exemption for the swimming pool to comply with those requirements, or
- that an alternative provision, no less effective than those requirements, exists for restricting access to the swimming pool.

An exemption may be granted unconditionally or subject to such conditions as the council considers appropriate to ensure that effective provision is made for restricting access to the swimming pool.
5. Special Requirements

5.01 Pools in Bonnet Bay and Sylvania Waters - Pool Filter Backwash
Sydney Water does not permit backwash or other waste water from swimming pools to be discharged directly into the vacuum sewer system, pool within these sewer systems shall be fitted with a cartridge filter or similar filtration system that does not require backwashing or allow waste water to be discharged. Sydney Water may allow sand filter and backwash where approved on-site detention tanks are provided with controlled release to the sewer system. No waste water shall be discharged to Council's stormwater drainage system or waterways.

5.02 Pools in Sylvania Waters - Hydrostatic Valves
The hydrostatic valve of the swimming pool shall be maintained in working order to prevent damage to the sea wall caused by the swimming pool rising out of the ground during periods of high water tables.
6. **Environmental Noise**

6.01 **Hours of Operation of Pool or Spa Pumps**

In accordance with the *Protection of the Environment Operations (noise control) Regulation 2008*, the use of pool/spa pumps may be restricted to:

- Between 8am and 8pm on any Sunday or public holiday; or
- Between 7am and 8pm on any other day, if the pump emits noise that can be heard within a habitable room in any other residential premises.
7. Further Information

The Division of Local Government - The Division of Local Government is responsible for administering the Swimming Pools Act 1992. They have a range of information available on their website, including a swimming pool laws brochure and home pool safety checklists in other languages.
http://www.dlg.nsw.gov.au

The Office of Fair Trading - NSW Fair Trading safeguards the rights of all consumers and advises business and traders on fair and ethical practice. They provide information on what to know when building a new swimming pool, the dangers of skimmer boxes and inflatable swimming pool safety.

Children’s Hospital at Westmead - provides a Protect your Pool, Protect your Kids video which visually demonstrates the basic pool fencing requirements in the Swimming Pools Act and provides other key water safety messages. Viewers may choose to view part or all of the 25 minute video depending on need. The website also contains other resources on pool safety.

Safewaters - provides further information on: fencing backyard pools; frequently asked questions; information in community languages; checklists for pool owners.

Swimsafe - Department of Arts, Sport and Recreation information regarding swimming lessons. 

Keep Watch – Home Pool Safety - Royal Life Saving Society information including checklist, fact sheets and other resources
http://www.homepoolsafety.com.au

Keep Watch Actions
The Keep Watch program has 4 key actions to prevent your child from drowning. These actions are not to be used in isolation and should form part of a web of prevention measures. Therefore if one line of defence fails there are more prevention measures working together to prevent your child from drowning. These are:
- Supervise
- Restrict Access
- Water Awareness
- Resuscitate

Follow the ABC of pool safety:
Always supervise your children near a pool
Begin swimming lessons for your children
Close the pool gate and keep your fence maintained

Contact Details for more information:
Pool Safety Officer - Sutherland Shire Council
Mail: Locked Bag 17 Sutherland NSW 149
E-Mail: poolsafety@ssc.nsw.gov.au
T: 02 9710 0333 | F: 02 9710 0265
Website www.sutherlandshire.nsw.gov.au