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## NSW POOL & SPA BARRIER INSPECTION UPDATE

### NSW SWIMMING POOLS REGISTRATION



In NSW, the owners of properties with a swimming pool and/or a spa pool are required to register their pools and spas. Click [HERE](#) or type <http://www.swimmingpoolregister.nsw.gov.au/> in your browser for further information.

### SWIMMING POOLS ACT AND REGULATIONS

A number of legislative instruments exist in NSW to support backyard swimming pool and spa pool safety, and apply to multi-occupancy dwellings and tourist and visitor accommodation as well. The legislation includes:

<a href="#">Swimming Pools Act 1992</a>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+49+1992+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+49+1992+cd+0+N</a>
<a href="#">Swimming Pools (Amendment) Act 2012</a>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+77+2012+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+77+2012+cd+0+N</a>
<a href="#">Swimming Pools Regulation 2008</a>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+399+2008+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+399+2008+cd+0+N</a>
<a href="#">Conveyancing (Sale of Land) Regulation 2010</a>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+473+2010+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+473+2010+cd+0+N</a>
<a href="#">Residential Tenancies Act 2010 No 42</a>	<a href="http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D2010%20AND%20no%3D42&amp;nohits=y">http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D2010%20AND%20no%3D42&amp;nohits=y</a>
<a href="#">Australian Standard</a>	<a href="http://www.olg.nsw.gov.au/public/my-home/swimming-pools/australian-standard-and-building-code">http://www.olg.nsw.gov.au/public/my-home/swimming-pools/australian-standard-and-building-code</a>
<a href="#">Building Code of Australia</a>	<a href="http://www.abcb.gov.au/about-the-national-construction-code/the-building-code-of-australia">http://www.abcb.gov.au/about-the-national-construction-code/the-building-code-of-australia</a>
<a href="#">Resuscitation Guideline</a>	<a href="http://resus.org.au/">http://resus.org.au/</a>

Click [HERE](#) for more information about the Swimming Pools Act and other legislation and what this means for pool owners.

## **2015 BARRIER INSPECTIONS** *(From 29 April 2015)*

### **Selling a property**

Before listing a property for sale, a valid certificate of registration and a valid certificate of compliance (or relevant occupation certificate issued within the last three years) must be annexed to the Contract for Sale and Purchase of Land if there is a swimming pool or spa pool present. Failure to do so may allow the purchaser to rescind the Contract within 14 days if exchanged after 29 April 2015, unless settlement has occurred.

### **Leasing a property**

In the case of a property for lease with a pool, the pool must be registered and it must have a valid certificate of compliance (or occupation certificate issued within the last three years) at the time the Residential Tenancy Agreement is entered into and a copy of that certificate must be given to the tenant. Property managers should ensure the pool has a valid compliance certificate or occupation certificate and is registered before a new lease is entered into.

### **Strata and community title schemes**

In the case of strata schemes, where there is a swimming pool or spa pool on common property, it is the Owners Corporation's obligation to ensure there is a valid certificate of compliance or occupation. With respect to community title schemes, a community association is responsible for ensuring a certificate is obtained.

## **HOW LONG IS THE CERTIFICATE VALID FOR?**

### **Residential**

From 29 April 2015 it will be compulsory that properties with a pool or spa that are being offered for sale or lease are to include a current pool certificate of compliance in the Contract of Sale or Leasing Agreement.

Provided there are no changes to the pool barrier, the Pool Certificate of Compliance is valid for three years.

### **Tourist/Visitor Accommodation and Multi- Occupancy Dwellings**

All tourist/visitor accommodation and multi- occupancy dwellings will require a renewal of their Certificate every three years.

## **FACT SHEETS AND RESOURCES**

- [Leasing a Property with a Swimming Pool or Spa Pool](#)
- [Selling a Property with a Swimming Pool or Spa Pool](#)
- [Inflatable Swimming Pools – Consumer Guidelines](#)
- [Portable Swimming Pools](#)
- [Swimming Pools Act and Other Legislation](#)
- [Australian Standards & the Building Code](#)

# WHO CAN UNDERTAKE INSPECTIONS



## Experience and qualification requirements

A new **E1** category has been created by the Building Professionals Board (BPB) to help existing category A1, A2 and A3 private certifiers and council officers meet the anticipated demand for swimming pool barrier inspections and certificates of compliance. Find out more about more about the BPB Accreditation Scheme by clicking [HERE](#).

Individuals that meet the **E1** Certifier eligibility criteria will be required to successfully complete the Category **E1** Accredited Certifier- Swimming Pool Certification Training Course to gain a certificate of accreditation in Category **E1**.

**E1** Category Applicants must satisfy the requirements of one of the following Pathways:

### PATHWAY 1 – QUALIFIED

#### 1. Qualification Requirement

Holds one of the following:

- Certificate of accreditation-Category A4 unconditional.
- Endorsed Contractors Licence issued under the *Home Building Act 1989* which authorises, or Includes the authority, for the holder to construct a swimming pool or to construct structural landscaping
- Qualified Supervisors Certificate issued under the *Home Building Act 1989* which authorises, or includes the authority, for the holder to construct a swimming pool or construct structural landscaping

**NOTE:** *The Building Professionals Board will notify all potential providers in early January 2015 with details of the approved E1 training Course. Training is likely to become available early February. Interested parties who meet the qualification requirement should contact SPASA for more information in the New Year.*

#### 2. Additional qualification

Applicants must also hold a certificate of satisfactory completion of the course or courses which are notified on the Building Professionals Board website covering the topics of swimming pool safety barriers and of the certification responsibilities of category **E1** certifiers.

### PATHWAY 2 – EXPERIENCE AND COMPLETION OF E1 COURSE

Applicants must satisfy the following experience and qualification requirements.

#### 1. Experience requirement

Two years recent practical experience working for a local council carrying out the inspection and certification of swimming pools and child resistant barriers for compliance with the *Swimming Pools Act 1992*, the *Swimming Pools Regulation 2008* and the relevant Australian Standards for swimming pool safety. This experience must include the inspection of not less than 20 different swimming pools and associated child resistant barriers for compliance with Part 2 of the *Swimming Pools Act 1992*.

#### 2. Specialty qualification

Applicants must also hold a certificate of satisfactory completion of the course or courses which are notified on the Building Professionals Board website covering the topics of swimming pool safety barriers and of the certification responsibilities of category **E1** certifiers.

## CONFLICT OF INTEREST CONDITION

(1) It is a condition of every certificate of accreditation of category A1, A2, A3 or E1 that the accredited certifier must not issue a certificate of compliance under the *Swimming Pools Act 1992* if the accredited certifier:

- a) has been involved in the design of the swimming pool, or
- b) has been involved in the carrying out of work on the swimming pool, or
- c) is the applicant for the certificate of compliance or is related to the applicant for the certificate of compliance, or
- d) is related to a person who was involved in the design, construction or installation of the swimming pool, or
- e) has a pecuniary interest in the swimming pool.

### (2) Meaning of being involved in the design of a swimming pool

For the purposes of this clause, an accredited certifier is involved in the design of a swimming pool if the accredited certifier is involved in the preparation of the plans or specifications for the swimming pool.

### (3) Meaning of being related to another person

For the purposes of this clause, an accredited certifier is related to another person if the accredited certifier is related to the other person in any of the ways described in section 68 (a)–(f) of the Act.

### (4) Meaning of having a pecuniary interest

For the purposes of this clause, an accredited certifier has a pecuniary interest in a swimming pool if there is a reasonable likelihood or expectation of appreciable financial gain or loss to the accredited certifier, or to a person to whom the accredited certifier is related, if the accredited certifier issues a certificate of compliance under the *Swimming Pools Act 1992*, or a notice under section 22E of that Act, in relation to the swimming pool.

(5) However, an accredited certifier does not have such a pecuniary interest if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the swimming pool.



## RECORD KEEPING BY ACCREDITED CERTIFIERS

**(1A)** An accredited certifier holding a certificate of accreditation of category A1, A2, A3 or **E1** must also cause the following to be kept at his or her business premises, or in another secure place, at all times:

- (a) for each year to which the accredited certifier's certificate of accreditation relates, a list of the premises at which the accredited certifier has carried out inspections under the *Swimming Pools Act 1992*,
- (b) for each of those premises, records of the following:
  - i. the lot and deposited plan number of the premises and the name of the local government area in which the premises are located,
  - ii. the date on which the inspection was carried out,
  - iii. if the inspection was carried out under section 22C of the *Swimming Pools Act 1992*, the name of the owner of the premises who requested the inspection,
  - iv. the name (if known) of the principal contractor who constructed or installed the swimming pool or barrier that was the subject of the inspection,
  - v. details (including copies) of any certificate of compliance under the *Swimming Pools Act 1992* issued by the accredited certifier in relation to the swimming pool or barrier,
  - vi. details (including copies) of any notice under section 22E of the *Swimming Pools Act 1992* issued by the accredited certifier in relation to the swimming pool or barrier and the date on which any such notice was forwarded to the relevant local authority.

## INSURANCE REQUIRED BY ACCREDITED CERTIFIERS

- At least \$1 million (exclusive of a certifier's legal expenses of defending a claim) or \$2 million (inclusive of defence costs) for any one claim, up to
- A maximum of \$2 million (exclusive of defence costs) or \$4 million (inclusive of defence costs) for all claims for a year.

Further details regarding BPB insurance requirements can be found [HERE](#).

## SCHEDULE 2 FEES

Application for certificate of individual accreditation, or renewal of certificate of individual accreditation, as an accredited certifier for the category **E1**:

- (a) if the applicant is an accredited certifier holding a category A4 certificate of accreditation  
**\$NIL**
- (b) if the applicant is not an accredited certifier holding a category A4 certificate of accreditation  
**\$1,500**

**For further information, please contact:**

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