Changes for properties sold or leased with swimming pools

What’s changing

- The Government is proposing to amend the *Swimming Pools Regulation 2008*, *Conveyancing (Sale of Land) Regulation 2010* and *Residential Tenancies Regulation 2010* to:

1. Allow the vendor of a property (with a swimming pool) to transfer the requirement to have a compliant pool barrier to the purchaser. The transfer will be realised through the attachment of a ‘certificate of non-compliance’ to the contract for sale.
2. Give the purchaser 90 days from the date of ownership transfer to address any issues of non-compliance in relation to the swimming pool barrier or be subject to current penalties.
3. Exempt properties with more than two (2) dwellings from the requirement to provide a compliant pool barrier on sale and lease as they are already regulated by mandatory three (3) year inspection programs.

Key points

- All properties with a swimming pool or spa pool being sold or leased on or after 29 April 2016 will need a valid certificate of compliance, certificate of non-compliance or a relevant occupation certificate.
- A ‘certificate of non-compliance’ will enable the seller to transfer the responsibility to obtain a certificate of compliance to the buyer.
- This transfer will be realised through the attachment of a certificate of non-compliance to the contract for sale.
- The buyer will have 90 days from the date of settlement to rectify defects listed in the certificate of non-compliance and obtain a certificate of compliance.
- Councils are encouraged to liaise with solicitors, real estate agents, conveyancers and their community regarding the new requirements.
- Councils should already have completed most mandatory inspections within their swimming pool inspection programs, including for pools on properties with more than 2 dwellings.
- The NSW Government continues to work with Royal Life NSW to protect child safety around pools through the public “Be Pool Safe” campaign, which includes promotional resources for councils.
- Detailed guidance and support material will be distributed shortly.
What this will mean for your council
- Councils will need adequate resources in place to meet the expected increase in requests for swimming pool barrier compliance inspections.
- Councils will be required to include in their annual report the number of inspections performed and the resultant number of certificates of compliance and certificates of non-compliance issued.
- Councils will be able to issue a non-compliance penalty infringement notice if a purchaser has not obtained a certificate of compliance within 90 days.

Where to go for further information
- Visit the Office of Local Government’s website at www.olg.nsw.gov.au

Tim Hurst
Acting Chief Executive
Office of Local Government