Circular Details | Circular No 16-12 / 29 April 2016 / A481676  
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Previous Circular | 16-05, 14-29  
Who should read this | General Managers / Staff responsible for swimming pool inspection programs  
Contact | Program Delivery Team / T: 02 4428 4100  
Action required | Information / Council to implement

**Circular to Councils**

**Arrangements for the sale and lease of swimming pools from 29 April 2016**

**What’s new or changing**  
- As previously advised to councils, swimming pool barrier sale and lease requirements commence today (Friday 29 April 2016).

**What this will mean for your council**  
- From 29 April 2016, properties sold with a pool must have either:  
  o A certificate of compliance;  
  o A relevant occupation certificate and a certificate of registration; or  
  o A certificate of non-compliance.  
- From 29 April 2016, properties newly leased with a pool must have either:  
  o A certificate of compliance; or  
  o A relevant occupation certificate and a certificate of registration.  
- These requirements do not apply to properties with more than two lots and a shared pool, such as units in strata complexes or community schemes, as they are already covered by the compulsory inspection programs already undertaken by local councils.  
- Existing swimming pool laws still apply which includes the primary responsibility for swimming pool barrier compliance remaining with the property owner, not with local councils.  
- Councils should continue to work with pool owners to ensure compliance with the relevant swimming pool barrier standards.

**Key points**  
- Councils conducting swimming pool barrier inspections at the request of the owner must now issue a notice (Cl.18B of the *Swimming Pools Regulation 2008*) and a certificate of non-compliance (Cl.18BA of the *Swimming Pools Regulation 2008*) when a pool barrier does not pass its compliance inspection.  
- The notice and certificate of non-compliance make it clear to the pool owner that their pool barrier is non-compliant at the time of inspection.  
- This will provide additional flexibility to a pool owner who intends to sell their property by allowing them to transfer the obligation to address any issues of barrier non-compliance to the new property owner.
The intent of the new provisions is to:
   o Give the new owner 90 days from date of settlement to rectify any non-compliance; and
   o Confirm that the pool owner remains at all times responsible for the condition and safety of their pool.
A certificate of non-compliance attached to the contract for sale of land is a clear indication to prospective owners that they are accepting the condition of the pool at the sale date, and that they accept responsibility for ensuring pool barrier compliance.
It is the Government’s expectation that a certificate of non-compliance will provide clear notice to prospective purchasers of the requirement to address any issues of non-compliance within the 90 day period set by the Regulation.
Councils should continue to use appropriate discretion with regard to any action under section 23 of the Swimming Pools Act 1992 when issuing a certificate of non-compliance.
Councils should continue to exercise sound and reasonable judgement in the application of their compliance and enforcement powers within the framework of regulation provided by the Swimming Pools Act 1992.
To achieve the Government’s policy aims regarding swimming pool barrier sale and lease requirements, Councils are encouraged to work with both people selling their properties and new pool owners to comply with the relevant pool barrier standards.
OLG intends to monitor how the new requirements are being implemented with a view to assisting Councils to achieve the Government’s policy aims.

Where to go for further information

Tim Hurst
Acting Chief Executive