

## *Don't be caught in the deep end! Swimming Pool safety changes*

On 1 January 2014, the *Development (Swimming Pool Safety) Variation Regulations 2013* ("the Variation Regulations") came into operation, introducing significant changes to the Development Regulations 2008 ("the Regulations") in relation to swimming pools and associated safety fencing and barriers.

These Variation Regulations were developed out of a discussion paper released by DPTI in April 2013 ("*Proposals to Improve the Legislative Framework for Swimming Pool Safety*") in response to growing concerns of death and permanent injury caused from drowning in residential pools, especially among young children.

Most relevantly for Councils, the Variation Regulations require (through amendments to regulation 76D) that by **1 April 2014**, all Councils develop a swimming pool inspection policy which must include the following minimum inspection requirements:

- **at least 80%** of swimming pools constructed over the course of a year **must** be inspected within **two weeks** of the Council being notified of the completion of:
  - the construction of a swimming pool; or
  - where a safety fence or barrier was required as part of the development, the construction of that fence or barrier; and
- **the remaining 20%** of swimming pools must be inspected (in accordance with the requirements above) within **two months**.

In order to enable these inspections to occur, the Variation Regulations also:

- introduce a new application fee of \$170, payable to the Council, for all developments which involve the construction, alteration or addition to a swimming pool or spa pool or a safety barrier or fence for such a pool. According to the LGA, this amount was calculated to meet the full cost to councils of carrying out this new inspection regime; and
- prescribe in regulation 74(1) that following acts are prescribed stages of work under section 59(1) of the *Development Act 1993* which must be notified to the Council within 1 business day:

- the completion of the construction of a swimming pool (before the pool is filled with water);
- the completion of the construction of a safety fence or barrier for a swimming pool; and
- in relation to other building work where swimming pool safety features are relevant, the completion of the building work in relation to those safety features.

The above changes **commenced on 1 January of this year**. Therefore, we encourage all Councils to ensure that they have begun charging this new fee for all relevant development applications.

**From 1 April 2014, Councils will be required to inspect all swimming pools which are constructed in their council areas.**

Finally, the Variation Regulations have also, commencing 1 January 2014:

- introduced a requirement (via a new regulation 76E) that **all** safety fences and barriers associated with the construction of a swimming pool be completed within two months of the construction of the pool;
- included safety fences and barriers as development which does not require Development Plan consent for the purposes of Schedule 1A to the Regulations. This change was made to correct an anomaly within the Regulations pursuant to which swimming pools themselves did not require Development Plan consent, but their associated safety fences and barriers did; and
- introduced a new clause 1(1)(fa) into Schedule 5 to the Regulations to specifically require that where building work will involve the construction, alteration or addition to a swimming pool or spa pool or an associated safety fence or barrier, that details of such pool, fence or barrier accompany the application for building rules consent. This amendment has been made to ensure that an assessment of the safety features of pools is undertaken as part of the building rules assessment.

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