

Comments on Building Professionals Board proposal to introduce a new category of accredited Swimming Pool Certifiers

2 September 2014

Southern Sydney Regional Organisation of Councils

Online Submission

<http://planspolicies.planning.nsw.gov.au>

To whom it may concern

Thank you for the opportunity to comment on the proposal by the Building Professionals Board to introduce a new category of accredited certifier (E1) to inspect child resistant barriers around swimming pools and spa pools, and to certify compliance with the *Swimming Pools Act 1992*.

SSROC member Councils are aware that, from 29 April 2015, residential properties and tourist accommodation with a swimming pool or spa pool must have a certificate of compliance for the pool barrier before the property can be leased or sold. SSROC supports the introduction of the new 'E1 Swimming Pool Certification' category to inspect pool barriers and therefore assist to manage increased demand for certificates. E1 certifiers will add to the number of accredited certifiers (in categories A1, A2 and A3), that can inspect and certify pool barriers.

Reporting to Council

SSROCs primary concern with the certification processes under the Swimming Pools Act is that there is no provision for private Certifiers to report to Councils that they have inspected and issued certificates in the NSW Pool Register. As Councils are required to undertake a pool inspection program which includes residential and commercial pools, it would reduce doubling up on inspections if private Certifiers were required to advise the relevant Council, which would then exclude that pool from the Council inspection program.

Change of Certifier Processes

A related concern is that there is no process for changing Certifiers. Where a Council or private Certifier is engaged there should be onus on the pool owner to state whether they have had prior engagement within the last six months and whether they have received notification to carry out works in relation to safety pool barriers. This would, to an extent, discourage pool owners from shopping around for more agreeable Certifiers.

Works Permitted under E1 Certification

There is confusion around whether E1 Certifiers are restricted to approve fences and structures under the Exempt development code or also able to approve works under Complying or Development Application. There is concern that the works required and certified by an E1 Certifier would need to either comply with a current Complying or Development Consent that apply to the property, or otherwise ensure the works meet the minimum design specification to reduce potential impacts on neighbouring amenity.

Some works may be outside the scope of an E1 Certifier to assess, such as:

- along the boundary of, or within the setback area of, a primary or secondary road;
- on land that is identified as being in a foreshore area;
- in a heritage item or a draft heritage item;
- in an environmentally sensitive area; or
- on flood prone land.

In addition to this certain Building Code provisions need to be considered when placing restrictions on doors and windows that impact on natural ventilation or form part of the fire safety egress pathway from a building. SSROC is concerned that Section 32 of the *Swimming Pools Act 1992* may override the health and fire safety provisions set out in other legislation, including the *Local Government Act 1993*.

SSROC suggests that E1 Certifiers should be restricted to class 1a buildings and be required to refer more complex assessments to a higher graded Certifier.

Timeframes for Action

SSROC member Councils have expressed concern at the timeframe under Section 22E(f) in which private Certifiers have only six weeks to forward a works notice to Council if a Certificate of Compliance is not issued. Pool inspections often take place at the time a property is being sold. Where a Certifier was engaged by the previous owner, the Certifier needs to be given the opportunity and the time to carry out follow up inspections with the new owner. In any case, barrier upgrades and replacements can take months, and the Certifier should be required to oversee the remedial action, only escalating the matter to Council if the pool owner is unduly slow in taking the required action or refuses to complete the works. Councils only request that they be advised if the pool is under the jurisdiction of a private Certifier.

SSROC requests that the timeframe under section 22E needs to be extended and provision be made for the Certifier to retain oversight of the works to completion, except under certain circumstances where escalation to Council is required.

We thank you for the opportunity to provide these comments and hope you find them useful.

Yours sincerely

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