

## Swimming Pools and Fencing Requirements

### Pool Applications

Pool applications for new pools or alterations to existing pools and permanent fencing are to be made on the Development Application DA Form 2 - building work requiring assessment against the *Building Act 1975*.

**Fees:** (\* - denotes GST included)

(Fees current to 30/06/2022)

- |   |        |
|---|--------|
| • Lodgement / Archive Fee                                       | \$280  |
| • Approval of Pool and Barrier (new & alterations)              | \$186* |
| • Finalization Fee including final inspection of pool & fencing | \$266* |

Plus additional inspections as required:

- |   |        |
|---|--------|
| • Inspection of steel reinforcement during construction                 | \$168* |
| • Inspection of temporary fencing prior to placement of >300mm of water | \$168* |

### Plans

Plans drafted in a professional manner are required with all applications.

Plans must show -

- Type of pool construction including (i) depths, (ii) location of ladders, (iii) electrical earthing provisions, (iv) construction details, (engineer certified where necessary), and (v) earthworks and retaining walls.
- Site plans to scale including locations of (i) pool, (ii) fences, (iii) gates and direction of swing, (iv) filter / circulation plant (important for control of pump/filter noise), (v) buildings on site, (vi) relevant doors and windows, (vii) splash zone provisions, and (viii) existing services (drainage, water, sewerage).
- Construction of fencing including (i) materials and sizes, (ii) height, (iv) latch type (v) latch location and/or shielding and (vi) method of protecting relevant doors and windows.
- Details of the intended methods of complying with other swimming pool requirements (not building requirements) - water quality, filter/pump capacities, disposal of backwash and excess pool water, should also be supplied with an application.

### Inspections during construction

Upon approval of the application, a warning sign must be placed at the property frontage. This is for safety reasons and to assist in the location of the site for inspections.

Inspections are required for (a) temporary fencing (if required), (b) construction steel in place prior to concrete pour (if required), (c) final including the permanent fencing.

The building certifier is required to provide a Form 16 for a compliant inspection, a Form 61 for non-compliance or a Form 17 for finalization of a swimming pool permit.

### Referenced Documents

For information on State pool fencing legislation, contact the Pool Safety section of the Queensland Building and Construction Commission.

Phone: 13 93 33

Web: <http://www.qbcc.qld.gov.au/home-building-owners/pool-safety/overview>

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Referenced Publications include:

- *Planning Act 2016, Building Act 1975 and Building Regulation 2021*
- Queensland Development Code (QDC) – MP 1.1 and MP 1.2 Design and Siting Standard.
- Queensland Development Code (QDC) – MP 3.4 Swimming pool barriers.
- Australian Standard AS 1926.1-2007- 'Swimming Pool Safety - Part 1: Safety barriers for swimming pools.'
- Australian Standard AS 1926.2-2007 - 'Swimming Pool Safety - Part 2: Location of safety barriers for swimming pools.'

### Queensland Development Code (QDC)

The QDC MP 3.4 – Swimming pool barriers, publication date - 18 July 2012, is called up by the *Building Act 1975* s.13 and commenced on 27 July 2012. This QDC MP 3.4 prevails over the Australian Standard AS 1926.1-2012 to the extent of any inconsistency.

### Swimming Pool Barriers

#### Performance Requirements (P1)

Swimming pools must have a barrier which:

- a) is continuous for the full extent of the hazard; and
- b) is of a strength and rigidity to withstand the foreseeable impact of people; and
- c) restricts the access of young children to the pool and the immediate pool surrounds, including access from Class 1, 2, 3 and 4 parts of buildings located within or outside the pool area; and
- d) has any gates fitted with latching devices not readily operated by young children, and constructed to automatically close and latch, and
- e) except for indoor swimming pools does not incorporate any doors providing access to or from a building.

#### Acceptable Solutions (A1)

Swimming pools must have a barrier complying with the *Standard*, subject to the:

- a) modifications to the standard specified in schedule 1 of the QDC MP 3.4; and
- b) tolerance limits specified in a guideline for swimming pool barriers made under section 258 of the *Building Act 1975*.

The requirements make it clear that child-resistant door sets are not included in the 'as of right' designs. This maintains the position of the previous legislation in regard to doors from a dwelling to the pool enclosure and access through an outbuilding to the pool enclosure i.e. they were only allowable by the exemption of the Local Government under exceptional circumstances and this provision has been discontinued.

The intent of the legislation is clearly to discourage access to the pool enclosure via doors from the dwelling or any other enclosure associated with the dwelling. It goes further in the informative section of AS 1926.2-2007 to say that where possible, tool sheds, garages, barbecues and clotheslines should be located outside the pool area to reduce the likelihood of self-closing gates being propped open in order to gain access.

### Terminology - *Building Act 1975*

**Swimming Pool** - An excavation or structure

- a) capable of being filled with water to a depth of 300mm or more; and

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- b) capable of being used for swimming, bathing, wading, paddling or some other human aquatic activity; and
- c) solely or principally used, or designed, manufactured or adapted to be solely or principally used for the purposes mentioned in paragraph (b) despite its current use; and includes a spa pool, spa tub or similar thing (whether portable or fixed) and a wading pool (other than a portable wading pool),

But does not include:

- d) a fish pond or pool solely or principally used, or designed, manufactured or adapted to be solely or principally used, for ornamental purposes;
- e) or a dam or tank solely or principally used, or designed, manufactured or adapted to be solely or principally used, for aquaculture, marine research or storage of water;
- f) or a water course meaning - a canal, creek, river or stream in which water flows permanently or intermittently; or an ocean, a lake or other collection of water (whether permanent or intermittent); or
- g) a portable wading pool. Meaning a pool that -
  - (i) is capable of being filled with water to a depth of no more than 300 mm; and
  - (ii) has a volume of no more than 2000 L; and
  - (iii) has no filtration system.

(The intent is that these portable wading pools are emptied on a daily basis for water quality purposes and that they are not left unsupervised.)

- h) a spa bath situated in a bathroom, other than a spa bath continually filled with water to a depth of more than 300 mm; or
- i) a birthing pool used solely for water-births.

**Construct** - for a regulated pool, includes to install or place the pool on the land, including within a building.

Examples:-

- If the person installs the pool above ground level on the land or in a building.
- If the pool is portable and the person places it, ready to be filled with water, on land or in a building.

**Dividing Fence**- Has the meaning given by the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

**Barrier** - The assembly of components natural or otherwise which form the intended barrier to the pool. The barrier includes items such as posts and panels, gates and door-sets, constructed or natural walls, sides of buildings, child-resistant windows, balustrades on a balcony, another form of barrier mentioned or provided for in the pool safety standard where they form part of the intended barrier.

**Barrier Height** - The height perpendicular to the finished ground level at any point along the length of the barrier, measured and complying with the QDC – MP 3.4 on the same side of the barrier as the non-climbable zone.

**Non-Climbable Zone (NCZ)** - A zone consisting of a barrier as well as the associated space within 900 mm of the barrier, intended to inhibit climbing of the barrier by children. This includes any point along the length of the barrier and its associated space.

**Permanently open from MP 3.4** - means in reference to the side of a patio, pergola, veranda, deck, balcony or the like – open space that is apart from a swimming pool barrier, continuously open to the external environment and not fitted with blinds, insect screens, shade cloth or the like.

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**Pool Enclosure** - The area around the pool within the fencing required under the Act.

**Owner of a Regulated Pool** - as per *Building Act 1975* schedule 2 means a variety of persons/entities depending on the location, but where specific locations are not applicable means:-

- generally - the owner of the land, building or structure on which the pool is situated, or
- if the occupier of the land, building or structure or that part of the land, building or structure on which the pool is situated is the owner of the pool but not the owner of the land, building or structure - the occupier.

**Regulated Land** - as per *Building Act 1975* s231A is land on which any of the following is constructed or is to be constructed:-

- a) a class 1, 2, 3 or 4 building;
- b) a moveable dwelling park;
- c) a residential park.

**A Regulated Pool** - as per *Building Act 1975* s231B is:-

- a) is a swimming pool situated on regulated land; and
- b) includes the barriers for the pool.

**Relevant Person** - for the purposes of *Building Act 1975* s.233 (Warning Sign) means:-

- the person who is, or is to become, the owner of the pool; or
- the builder of the pool.

**Resuscitation Sign** - Means a sign showing procedures for providing first aid, including, for example, expired air resuscitation and external cardiac compression. The owner of the pool must, in the way prescribed under a regulation, ensure that there is always displayed for the pool a resuscitation sign complying with the requirements for a resuscitation sign prescribed under a regulation. *Under Building Act 1975* s231D, the prescribed resuscitation sign and display requirements are contained in section 13A of the *Building Regulation 2021*. This references the ANZCOR Guideline 8 – Cardiopulmonary resuscitation (CPR).

**Temporary Fence** - may be used prior to the installation of a permanent barrier for an initial period of 3 months from the date the fence was inspected and approved as being compliant by the building certifier. A temporary fence must have a compliant gate assembly and be securely fixed to resist reasonably foreseeable actions.

**Summary of Standards** (Including the modifications imposed by QDC MP 3.4)

Note: This is only a summary by Somerset Regional Council and the standards should be referred to for full detail.

- The barrier - Refer to definition, shall be designed and constructed to be a permanent structure so that it will restrict access by young children, be free of sharp edges and projections, entrapping spaces & similar hazards.
- The effective barrier height - for standard above ground situations shall be not less than 1200 mm and shall include a 900 mm continuous non-climbable zone on that side for which this height is measured. (refer to figures 1 – 9 from QDC MP 3.4)
- Generally, this requires gated fencing of the access, fencing of any external supports or the filtration equipment placed adjacent to the pool in the NCZ. Lockup lids and pool covers or take-away ladders are not legal security for a pool or a spa.

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- The Non-Climbable Zone (NCZ) may be located anywhere on the vertical face of the barrier. In this zone the distance between any hand and foothold shall be not less than 900 mm. (For rails, is measured from the top surface of upper and lower members.) (For sloped panels these measurements are taken perpendicular to the finished ground). The non-climbable zone must have no projections or indentations greater than 10 mm. This includes the distance between gate hinges. (Refer to figures 1 – 13 from QDC MP 3.4 and Fig 2.2 and 2.3 in the Standard)
- Where vertical member spacing exceeds 10 mm in the NCZ, no horizontal surface that could be used as foot holds for climbing can be located within 300 mm inside the NCZ barrier. If external members spacing is 10 mm or less than internal climbable features are regarded as shielded.
- Any opening between the bottom of the fencing and the finished ground level shall not exceed 100 mm and the ground surface is required to be difficult to dig under.
- Vertical members spacing shall not exceed 100 mm and be able to pass the squeeze test.
- Additional clear areas as defined in the figures as associated with the non-climbable zone are to be free of objects that reduce the minimum effective barrier height. Climbable rails on the fence may be allowed in these areas but not in the non-climbable zone.
- Materials used in the construction are to be of the required strength and rigidity for members must not exceed the required tolerances for deflection i.e. able to pass a squeeze test.
- Fencing using perforated materials or mesh with apertures greater than 13 mm but less than 100 mm shall have a strainer wire or rail at the top and bottom, and
  - a) an effective height of 2.4 metres, or
  - b) a 1.8 metre high fence topped by a 450 mm cranked top.
- Fencing shall be designed to be vertical but shall not lean away from the pool, to be more than 15° off the vertical and must maintain a minimum height of 1,200 mm measured vertically.
- Gates (and doors for indoor swimming pools) shall be hung so that they only swing outwards from the pool enclosure and swing freely through their arc of operation. Gates shall be fitted with a self-closing device that will return the gate to the closed position and operate the latching device. It is to work from any position from 'fully open' to 'resting on latch' with a stationary start and without the application of manual force. The latching device will automatically operate on the closing of the gate and will prevent the gate from being re-opened without being manually released. Gate hinges should be fitted at least 900mm apart.
- The body of the latching device (not the top of the knob) is to be located:
  - a)
    - (i) At least 1,500 mm above the finished ground level, and
    - (ii) 1,400 mm above the highest lower horizontal member, or
  - b) Be placed inside the pool enclosure in a position that to release the latching device from the outside it is necessary to reach over or through a hole in the fence at a height of 1,200 mm above the finished ground;
    - (i) metre above the highest lower horizontal member,
    - (ii) 1.0 metre above the highest lower horizontal member, and that the latch be at least 150 mm below the top of the gate or at least 150 mm away from the edge of any hand-hole opening.
- Shielding of the latching device must be provided for an effective radius of 450 mm from the operating parts of the latch where the release to the latching device is positioned as per (b) above i.e. less than 1500 metres above ground level, and the external member spacing is greater than 10 mm.

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- Windows into the pool enclosure that are less than 1800 mm above ground level are required to be child-resistant by the following means:
  - (i) By providing a height from floor to sill that is greater than 1200 mm, or where height from floor to sill is less than 1200 mm;
  - (ii) then the openable portion of the window must be totally protected with complying bars or screen which shall be tool fixed to the building, or
    - a) the windows shall be fixed in such a way that they will only open 105 mm, or
    - b) where the sill is higher than 900 mm, fitted with a securely fixed fly screen.
- Balconies projecting into the pool area must be protected by a compliant balustrade where they are (a) less than 1800 mm above ground level, or (b) any part of the balcony projects into the NCZ from the top of the pool fence, or (c) where climbable features exist in the NCZ below the balcony floor.
- Retaining walls - on the high side of the pool, shall be an effective barrier if:
  - a) it has an effective height of not less than 1800 mm including a NCZ, and
  - b) does not slope more than 15° to the vertical on the low side of the pool, shall be an effective barrier if:
    - (i) it does not slope more than 15° to the vertical, and
    - (ii) it has a 1.2 metre effective height and an outside surface complying with the non-climbable requirements, or
    - (iii) if the outside surface does not comply with non - climbable requirements, it must have an 1800 mm effective height and include a NCZ.
- As per QDC MP 3.4 Item 11 - To overcome issues of non-compliance on an adjacent neighbours side of a dividing fence, a 1.8 metre high barrier may be climbable on the outside, if there are no climbable objects in the 900 mm non-climbable zone from the top of the inside of the barrier enabling a young child to climb down on the inside of the pool enclosure. Intersecting non-climbable fence tops less than 50 mm wide are permitted within this non-climbable zone. [refer to Fig 14 (a) & (b) from QDC-MP3.4]
- Pools constructed within 1.5 metres of a front or adjacent boundary require a splash-proof fence, the top of which is not less than 1.0 metre above the pool coping.
- 'A person' who opens a gate or door giving access to a regulated pool must ensure the gate or door is securely closed while the gate or door is not in use. 'The owner' of a regulated pool (that is a shared pool), or 'the occupier' of premises on which there is a regulated pool (that is not a shared pool), must ensure that any gate or door giving access to the pool is kept securely closed at all times when the gate or door is not in use.

'End of summary.'

### Overcoming common problems with pool fencing compliance:

- Stepping features in fencing between panels introduce problems with the maintenance of the 900mm non-climbable zone between the highest lower member and the lowest upper member. Solutions: The area of non-compliance needs to be overcome by the specific construction of a raked panel to suit or to be 'shielded' in a manner to prevent hand and toe holds in a 900 mm wide non-climbable zone.
- Intersection of a fence with another climbable feature. Solution: To be protected by the extension of the non-climbable zone 900 mm and also the additional clear area beyond the end of the fence.
- Abutment to veranda's and open-ended barriers etc. can provide a 'walk around the end' problem. Solution: The access along the outside of the enclosure needs to be prevented by 'shielding' from the top of the barrier down past the decking to prevent toe holds in a 900 mm wide zone.
- Open lattice work or the like in a barrier around a pool causing a climbable feature. Solution: Avoid using lattice etc around a pool enclosure unless it entirely fills the void and has no portions of fencing adjacent to the barrier or provide 'shielding'.

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- Gate movement causing misalignment of the latch preventing closing from 'resting on latch' position. Solution: Fabricate a full frame for the gate to swing inside correctly, then fix the entire gate assembly to the adjacent posts to allow for ground movements without affecting the gate operation.
- Utilities providers require uninhibited access to their infrastructure. Solution: Fencing enclosure should be designed to avoid any enclosure of water and power meters in the pool enclosure.

### When can you fill the pool with water?

A person must not fill a pool with water to a depth of 300 mm or more before a building certifier has provided a certificate in the approved form, that being a Form 16 for temporary fencing, or a Form 17 for permanent fencing stating the pool and / or the fencing is complying.

### Inspections during construction are required.

- As per Council's fees and charges, two inspections are paid for as part of the building application. Additional inspections will attract additional payment.
- The Council building certifiers wish to perform the inspections that have been paid for and ensure that the works are located and prepared satisfactorily before concrete is poured or water is placed to a depth of greater than 300 mm.
- The stages of construction requiring inspections are listed in the approval decision notice but normally occur at the following stages:
  - reinforcing steel in place before concrete is poured, and
  - temporary fencing, and
  - then finally at the completion of pool and fencing works.
- Inspection times are to be arranged with the Council's building department (07) 5424 4000. We request at least 24 hours notice be given when booking inspections. It is helpful to have the permit number, owner's name and site details ready when calling.

### Disclaimer:

The information contained in this handout has been prepared with due care. This handout is offered only for the purpose of providing useful information to assist those interested in lodging a building application. Whilst every effort has been made to ensure that this handout is in accordance with current regulations, it is not intended as an exhaustive statement of all relevant data, and no responsibility is accepted for errors in, or omissions from this handout.

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