Building Application For Swimming Pool Or Spa With Safety Fence

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Purpose of This Information Sheet

- An application for a permit to install a swimming pool / spa is required under legislation.
- A safety pool fence is required on a swimming pool associated with Class 1, 2, 3 and 4 type buildings (eg single detached dwellings, multi-dwelling complexes, hotels/motels and care-takers residence to a commercial building). Pools on these properties are deemed 'regulated pools' (refer s231B of the *Building Act 1975*). The fence is required to comply with the *Queensland Development Code Mandatory Part 3.4*.
- This sheet provides a general overview of most commonly asked questions regarding swimming pools, swimming pool fencing and requirements for submitting a building application to install a swimming pool.

Definitions Of Types of Swimming Pools

Swimming Pool (Schedule 2 of the *Building Act 1975*):

An excavation or structure:

a) Capable of being filled with water to a depth of 300mm or more; and
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, or
e) 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; or
f) A watercourse; or
g) A portable wading pool (see definition below); or
h) A spa bath situated in a bathroom, other than a spa bath continually filled with water to a depth of more than 300mm; or
i) A birthing pool used solely for waterbirths.

Indoor Swimming Pool (Schedule 2 of the *Building Act 1975*):

(a) a swimming pool completely enclosed by the walls of a building; or
(b) a swimming pool on a deck or roof top of a building if the pool is, under the usual ways of entering or leaving the building, only accessible from the inside of the building.

Portable Wading Pool (Schedule 2 of the *Building Act 1975*):

a) Is capable of being filled with water to a depth of no more than 300mm; and
b) Has a volume of no more than 2000 litres; and
c) Has no filtration system.

Swimming Pool Safety Fences / Dates To Note

A safety pool fence is required on a swimming pool associated with Class 1, 2, 3 and 4 type buildings (eg single detached dwellings, multi-dwelling complexes, hotels/motels and care-takers residence to a commercial building). Pools on these properties are deemed 'regulated pools' (refer s231B of the *Building Act 1975*). The fence is required to comply with the *Queensland Development Code* Mandatory Part 3.4.

On December 1 2010, the State Government legislated to establish a database of swimming pools constructed on residential land (ie a regulated pool) which will require the pool owner to obtain a Pool Safety Fence Certificate either annually or biannually (for shared and non-shared pools respectively). Other important information to note is:

- **30 November 2015: Pool safety fences to non-shared pools are required to be upgraded and compliant with the new legislation or prior to this date if a sale or lease occurs**
- **Compliant pools are issued with a pool safety certificate and are detailed on a register which is accessed on the government website.**
- **A Information sheet entitled "New Pool Safety Laws – Does Your Pool Pass the Test?" is available on the government website to detail how this latest legislation change will affect the pool owner.**

Factors Affecting A Building Application

- **Siting Requirements:** The *Queensland Development Code* regulates siting requirements for single detached dwellings and Class 10 type structures. Refer to website www.hpw.qld.gov.au or Council's Information sheet.
- **Planning Scheme:** A planning scheme may have 'alternative provisions' which provide boundary setbacks that conflict with the *Queensland Development Code*. Where such provisions exist, then those provisions override the *Queensland Development Code*. Check the planning scheme which has jurisdiction over your property for any alternative provisions relating to boundary setbacks or contact the Duty Planner for assistance.

To Lodge The Building Application

The application may be lodged at 25 Normanby Street, Yeppoon.

Documentation Required For A Pool / Spa Application

Floor Plans (min scale 1:100 – 3 sets)

1.1 Floor plan – full dimensions
1.2 Elevation and section plans – full dimensions
1.3 Engineer certified design details (Note: engineer to also provide Form 15 – Certificate of Design Compliance)
1.4 The maximum water level or overflow point
1.5 Capacity of the pool
1.6 Fence construction details – show direction of gate opening/closing
1.7 If any retaining walls/other structures proposed, then provide construction details
1.8 Filter details (type, location and capacity)
1.8 If electrical lighting in pool, earthing provision details
1.10 Elevation of the building if the building is to be used as part of the pool enclosure. Doors and windows are to be shown on the plan and elevation.

General

3.1 Application Form 1 and Form 2
3.3 PLSL receipt details if work value >$80,000
3.4 Application Fees – refer to Fees Schedule

Site Plan (min scale 1:200 – 3 sets)

2.1 Full outline of property with site dimensions
2.2 Location of ALL existing buildings and **pool and pool fencing**
2.3 North point
2.4 Road frontages to be identified
2.5 Easement/ covenant areas on the site
2.6 Distance of the pool/pool fencing/any proposed buildings from the boundaries
2.7 Location of sewer / method of disposing of water overflow and backwash discharge from the pool.
2.8 Details of any site works that must be carried out as part of or for the development.
2.9 Location of skimmer box, inlet, hydrostatic relief valve
2.10 Any permanent objects such as trees or other structures that are within 1200mm of the fence (these may be used to gain access into the pool area)

For Replacement of Pool Fence / Temporary Pool Fence Application

The following items as referenced from above are required:
1.6, 1.7, 1.10
2.1, 2.2, 2.4, 2.5, 2.6, 2.8, 2.9, 2.10,
3.1, 3.3, 3.4

Information Source / Legislation / Website Details

Building Regulations 2006
Building Act 1975 (Chapter 8)
Queensland Development Code (Mandatory Part 3.4 - Pool Barriers)
Queensland Development Code (Mandatory Part 1.1/1.2 - Boundary Setbacks)

All legislation can be viewed on the government website www.hpw.qld.gov.au

Enquiries

To confirm requirements under the Planning Scheme contact the Duty Planner; and
For clarification of building applications requirements, contact the Construction Services of Council or your nominated building certifier for the project.

Frequently Asked Questions About: Swimming Pools

1. When is a permit required for a pool?

Answer the following questions with either yes or no… If yes is the answer to **ANY** of these questions, then a development permit is required for the pool. An application for a permit for a pool must include details of the safety fence.

Is the pool / spa/ wading pool capable of being filled with water to a depth exceeding 300mm?
Is the capacity of the pool / spa / wading pool capable of exceeding 2000 litres?
Is the pool / spa / wading pool to be fitted with a filtration system?

2. How long is the permit valid for?

If the development approval is for the construction of a pool and pool fence only then the permit is valid for six months and, further, under legislation the final inspection must be carried out before the six months expires.
If the development approval is for a building structure (dwelling) and includes the pool then the permit is valid for two years and the building work is to be completed by the end of this period.

3. When can the pool be filled with water?

The water depth should not exceed 300mm in depth until a pool safety fence has been installed and inspected for compliance with the regulations.

4. A portable pool is proposed to be erected/used only during summer – at other times it will be stored away in a shed. It does not comply with the definition of a portable wading pool and may not necessarily be erected in the same location on the property each time. Is a pool safety fence required?

Yes. Where the pool does not comply with the definition of a portable wading pool then a permit must be obtained each time the pool is erected and the fence must comply with the pool safety fence requirements.

5. I have a portable pool which can be filled to a depth greater than 300mm, but propose to fill the pool only up to 300mm. Is a pool safety fence required?

Yes – where the pool is capable of not complying with the definitions of a portable wading pool, then a permit must be obtained for the installation of the pool and the pool safety fence.

6. Does a portable spa on a deck attached to the house need a safety fence?

Yes. A spa pool, whether portable and fixed, comes under the definition of a swimming pool. If the spa is an indoor pool and complies with the definition of an indoor pool (see definitions above) then it will not require a fence.

7. Does a spa with a lockable cover still require approval and a pool fence?

Yes. A spa pool, whether portable and fixed, comes under the definition of a swimming pool and therefore requires a development approval for building and a complying fence.

8. I have an above ground pool and take away the ladder when it is not in use – do I need a pool fence?

A pool fence is required to be constructed if:

- the pool walls are less than 1200mm high from the ground level, or
- it has climbable members on the wall, or
- there are objects such as filters and other fixtures fixed to the pool which are within the non-climbable zone.

Even though the fence may comply with the above, the area where the pool ladder is to be located must be fenced. The Australian Standard 1926.1.2007 states: "…*In addition to the requirements of clause 2.10, a designated swimming pool access point must be provided, regardless of whether or not a permanent access ladder is installed. The access point must be enclosed by a barrier, including a gate that complies with this part*…"

9. When is a pool fence required?

- A safety pool fence is required on a swimming pool associated with Class 1, 2, 3 and 4 type buildings (eg single detached dwellings, multi-dwelling complexes, hotels/motels and care-takers residence to a commercial building). Pools on these properties are deemed 'regulated pools' (refer s231B of the *Building Act 1975*). The fence is required to comply with the *Queensland Development Code* Mandatory Part 3.4.
- Where an above-ground pool is higher than 1200mm from the natural ground, and there are no footholds in the structure to allow a child to climb into the pool, then a fence is not required. However, where any fixtures (ladder/filter/structure, etc) are located within the climbable zone then a pool fence is required to those fixtures. (Note – an application for the pool is still required)

10. What is a non-climbable zone?

A span measured as a radius from the top of the pool fence in which there must be no objects which can assist a child to gain access into the pool area. Refer to the *Queensland Development Code* 3.4 for full details and illustrations.

11. During installing of a pool, the pool is required to have water in it but the permanent fence has not yet been installed – what can I do to make to comply with pool fencing legislation?

- A temporary pool fence may be used instead of a permanent barrier for a maximum period of three (3) months from the date the temporary fence was inspected and approved. Refer to s2.1 of the Mandatory Part 3.4 of the *Queensland Development Code* for detailed information.
- A temporary pool fence may be installed **upon request** (application required) in the interim before the permanent fence is installed. Application details are provided in the next section of this document.
- Drawing plans are required for assessment/decision before the temporary fence may be installed.
- The inspection of the temporary fencing is to be carried out by the Building Certifier and must be determined as compliant before the pool can be filled with water to a depth of 300mm or more.

12. Can a boundary fence be used as part of the pool fence?

- Yes, however, regulations introduced in December 2009 require the pool owner to ensure the fence is compliant with pool safety regulations <u>at all times</u>.
- Section 245U of the *Building Act 1975* states the cost to construct/ repair/ alter/ maintain that part of the boundary fence which is part of the pool safety fence is to be borne by the pool owner.
- As it is difficult to regulate activities on the neighbouring property which may compromise the compliance of the pool safety fence, it is recommended the **boundary fence not be used** as a pool safety fence.
- Remember, it is the responsibility of the owner of the pool to ensure that the pool safety fence is compliant at all times.

13. Replacing an Existing Pool Safety Fence – Is An Application Required?

- Complete replacement of fence: If an existing pool safety fence is to be fully replaced or is in *substantial disrepair* to the extent that it is impracticable to keep the fencing in good condition, then a new fence is required and an application is required. The new fence is to comply with current legislation.
- Part replacement of fence: Refer to Schedule 2B of the Building Regulations to determine if the proposed work is considered self-assessable or assessable building work (ie if does not or does require an application). Advice should be sought from a licensed pool inspector if further advice is required.

14. Who Is Responsible for Installing / Maintaining A Compliant Pool Fence?

- **Installing the fence –** where a registered builder is engaged to do the work and the work is valued at over $3,300 then the builder is required to be licensed to do the work. Where the building work is to be carried out by the owner then an owner-builder number is required if the work is valued at over $11,000.
- **Existing pool/fence on residential land** – the owner of the pool is responsible to ensure that the gate is not kept open, that no objects are placed within the non-climbable zone and that the installed fence is compliant at all times.
- **Existing pool/fence on tenanted residential land** – the tenants are responsible for ensuring the gate is not kept open and that no objects are placed within the non-climbable zone to make the fence non-compliant. The owner is responsible to ensure the installed fence is compliant..

15. What will happen if my pool safety fence is found to be non-compliant?

During installation of a new pool fence, the pool installer is required to rectify the fence before a final certification is issued for the work. If an existing pool is found to have a non-compliant fence, a notice can be issued against the owner of the pool to make the pool safety fence compliant. As from 1 November 2003, the State Government has empowered local authorities to issue on-the-spot fines for infringement of the swimming pool safety fencing requirements.

16. When is a plumbing/drainage application required for a swimming pool?

A plumbing/drainage application must be submitted to Council when there is plumbing/drainage regulated work pertaining to the installation and operation of a swimming pool eg this may be the fitting of an appropriate backflow prevention device and/or the connection of the backwash water to the Council sewerage system. Clarification can be obtained by contacting Council's Development Compliance – Plumbing Section.

17. I wish to drain the pool water into the town sewer system – what should I do?

Contact Council's Infrastructure Services Department . The pool owner may be required to drain the pool at a particular time to allow the sewer system to receive the large volume of water.

18. Can I drain the overflow from the pool over my land?

The pool owner is required to ensure that the overflow does not adversely impact on the neighbouring properties. In addition, the chemicals should not impact on the vegetation. This is a civil matter.

19. When is a planning application required for a swimming pool?

The Planning Scheme manages development by using features such as zones, development assessment tables and codes and also contains maps that identify zones, overlays and major infrastructure. As such, any proposed building development work must be assessed against criteria within that Planning Scheme to determine if the development meets those criteria or if an application is needed for a land use, works or reconfiguration. Where the development does not comply with the Planning Scheme then it is likely that planning approval is required. Enquiries may be directed to the Duty Planner for assistance if required.