

Class 3 buildings—Pool safety management plan guideline

A guide for owners of class 3 buildings in the application of pool safety management plans

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Purpose

The purpose of this guideline is to assist owners of hotels, motels, boarding houses, backpackers accommodation and the like (class 3 buildings) to understand the application process for pool safety management plans as specified under the *Building Act 1975* (BA).

This guideline is made under section 258 of the BA. Section 258 provides for guidelines to be made to help achieve compliance with the BA. It is recommended that the information given in this guideline be followed, however strict compliance with this guideline is not mandatory under the BA.

Scope

This guideline covers legislation and standards relating to swimming pool safety management plans, roles and responsibilities and powers relating to Queensland's pool safety laws.

General and industry related information about pool safety laws is available on the Department of Housing and Public Works (the department) website www.hpw.qld.gov.au.

Definition of terms

Terms used within this guideline are defined below.

Class 3 building—a residential building which is a common place of long-term or transient living for a number of unrelated persons, including:

- a boarding-house, guest house, hostel, lodging-house or backpackers accommodation
- a residential part of a hotel or motel
- a residential part of a school
- accommodation for the aged, children or people with disabilities
- a residential part of a health-care building which accommodates members of staff
- a residential part of a detention centre.

Pool safety standard—Queensland Development Code Mandatory Part 3.4 and any other standard prescribed under a regulation for ensuring the safety of persons using a regulated pool.

Regulated land—is land on which any of the following is constructed or is to be constructed:

- a class 1, 2, 3 or 4 building
- a moveable dwelling park under the *Residential Tenancies and Rooming Accommodation Act 2008*
- a residential park under the *Manufactured Homes (Residential Parks) Act 2003*.

The term includes land adjacent to the land and in the same ownership as the land or used in association with the land.

Regulated pool—is a swimming pool situated on regulated land and includes the barriers for the pool.

Legislation and standards relating to swimming pool safety

Building Act 1975 (BA)

Swimming pool safety in Queensland is regulated through the BA. The objective of the pool safety system in the BA is to help reduce the incidence of pool-related immersion injuries and drowning deaths for children aged five and under. The BA allows an owner of a pool associated with a class 3 building to use an approved pool safety management plan in lieu of providing a pool barrier complying with the pool safety standard.

Queensland Development Code (QDC) Mandatory Part (MP) 3.4

The BA cites the QDC MP 3.4 as the primary technical document for the requirements for swimming pool safety. QDC MP 3.4 also references Australian Standard 1926.1 and 2-2007 which prescribes additional technical requirements for swimming pool barriers. However, where the Australian Standard and QDC are inconsistent the QDC will prevail.

Work Health and Safety Act 2011 (WHS)

Any persons who conduct a business or undertaking, whether as employers, self-employed persons or otherwise have an obligation to ensure their own health and safety and the health and safety of others. There are substantial penalties in the *Work Health and Safety Act 2011* if a person fails to fulfil their health and safety duty and places a person to whom the duty is owed at risk of death or serious injury or illness.

Roles and responsibilities

Pool owners

An owner of a pool on regulated land is required to ensure their pool complies with the pool safety laws. Owners of pools associated with class 3 buildings were required to have either a valid pool safety certificate or an approved pool safety management plan in effect for their pools before 1 June 2011. Pool owners must also continue to comply with either the pool safety standard or an approved pool safety management plan. Where owners elect to use a pool safety management plan to comply, applications to continue to use the plan must be made annually.

Queensland Building and Construction Commission (QBCC)

The QBCC is responsible for the administration of the pool safety laws, including assessing and approving pool safety management plans if satisfied that appropriate measures are in place for the safety of young children in and around pools.

Pool safety inspectors

Pool safety inspectors must be licensed by the QBCC and are permitted to perform pool safety inspection functions. These functions include:

- inspecting a regulated pool to decide whether to give a pool safety certificate
- carrying out minor repairs relating to a regulated pool
- giving a pool safety certificate or nonconformity notice for regulated pools.

Building certifiers

A building certifier can perform the same functions as a pool safety inspector including inspecting pools, issuing pool safety certificates, and performing minor repairs (subject to the type of licence held). A building certifier is not able to issue a pool safety certificate or non-conformity notice unless they are a licensed pool safety inspector.

Pool safety management plans

Background

Under the BA, the owner of a pool associated with a class 3 building may use an approved pool safety management plan to comply with swimming pool safety legislation instead of providing a swimming pool barrier complying with the pool safety standard. A pool safety management plan must include details of the safety measures the owner intends to implement under the plan to appropriately provide for the safety of young children in and around the pool.

A pool safety management plan is not an exemption from pool safety laws. Instead, it provides that the owner of a pool associated with a class 3 building may use approved alternative measures in order to comply with pool safety legislation.

Workplace health and safety

Owners developing a pool safety management plan may also wish to use the plan to implement risk reduction measures from Workplace Health and Safety Queensland's *Information guide for owners, operators and controllers of public swimming pools—managing drowning risks at publicly accessible pools*.

The information guide recommends the Royal Life Saving Society Australia (RLSSA) Guidelines for useful information about applying suitable controls for the use of pools. These guidelines include a checklist which can be used to determine the risks presented by particular pools and their uses, so that suitable controls can be selected.

Although these guidelines are published by RLSSA, they were developed in consultation with, and represent the collective opinion of, the aquatics industry across Australia. As a result, the guidelines have become a minimum standards document, similar to an Australian standard, providing advice to the aquatics industry on the minimum requirements for particular situations.

The guidelines are a prime point of reference for the legal community when issues in the aquatic industry go to court, particularly in relation to the provision of supervision by lifeguards. They have been examined and referred to in various Coroner's and Magistrate's Courts across Australia.

In addition to the *Guidelines for safe pool operations*, the RLSSA has developed *Guidelines for water safety* applicable for use in other aquatic environments including those operated by bodies corporate, hotels, motels, camping and caravan grounds, commercial learn to swim and school pools and those that are part of urban water developments.

The information guide can be found at www.worksafe.qld.gov.au or by calling the Workplace Health and Safety info line on 1300 362 128.

Objective

A pool safety management plan must provide an equivalent or greater degree of safety as the pool safety standard for children under five years of age.

Developing a plan

Similar to the pool safety standard, a pool safety management plan is performance-based and pool owners must justify how they intend to provide an equivalent or greater degree of pool safety as the pool safety standard. A list of items that may assist pool owners in developing a pool safety management plan is set out in Table 1. However, pool owners are responsible for ensuring a pool safety management plan complies with the BA and the items in Table 1 are intended to act only as a guide and are not exhaustive.

A pool safety management plan is to be simple, clear and easy to read. Attachments should be avoided except where they enable the plan to be followed by anyone who needs to implement the plan.

Risk reduction principles

No pool fence

Where no pool fence exists, measures that provide a high level of supervision may help compensate for the lack of barriers to the pool area, for example using full-time lifeguards.

However, evidence from drowning incidents indicate that even lifeguards do not always provide an adequate level of protection for young children in and around the pool. According to the RLSSA, the role of a lifeguard in a public pool facility is to oversee the safe operation of the facility and to ensure that all patrons can safely enjoy their time there. Lifeguards often perform these responsibilities for hundreds of patrons at a time so it is important for parents to supervise their children themselves. In other words, a pool safety management plan should reflect measures to ensure lifeguards are not used as babysitters.

For example, a young child watching television in an apartment may make their way outside and drown in an unfenced pool while the parents are preoccupied with other activities, such as preparing dinner. While the pool owner may employ a lifeguard, the lifeguard may not be on duty at all times.

Therefore, other measures may still be required such as measures to ensure the pool area is safe after hours.

Parental supervision

Active parental supervision is an important safeguard against drowning. However, parental supervisors can be easily distracted due to being in 'holiday mode' and reducing their usual vigilance because of the presence of lifeguards or staff to supervise children. Other factors, such as large numbers of people using a pool area and inflatable pool equipment, can also block lines of sight and make adequate parental supervision difficult.

Measures which address these issues should also be considered in a pool safety management plan. One option may be to include a set of pool rules that are visible to all patrons on entry to the pool area. As a pool safety measure, these rules could also address how they intend to be enforced and actively communicated to staff and patrons.

Partially enclosed pools

Where a pool is mostly enclosed by a compliant pool barrier but a section remains open, a pool safety measure may include continuous security monitoring of the open section to prevent access by young children without parental supervision.

Other measures may still be required and demonstrated in the pool safety management plan to show how an equivalent or greater degree of pool safety as the pool safety standard will be achieved.

Consideration also needs to be given to barriers during after hours access, such as providing a lockable hard cover for a spa and implementing procedures for staff to ensure the cover is used during non-supervised times.

Adult only pool facilities

A pool owner may be able to justify fewer pool barriers where a pool or resort is for adults only. However, they may still need to provide measures indicating how they will prevent access by young children.

Simply referring to a pool as 'adult only' in a resort where children may have access will not be sufficient. There will need to be a reliable method for preventing children from entering the vicinity of the pool area. The pool safety management plan may need to take into account the activities that are undertaken in surrounding properties and the likelihood of children entering the property and subsequently entering the pool area.

Making an application

The owner of a pool associated with a class 3 building may apply to the QBCC for approval of the pool safety management plan. The application must be made in the approved form and be accompanied by the fee prescribed under a regulation.

The application fee covers processing costs and includes a base application fee, a fee for each additional pool and a travel fee if the QBCC considers a physical site inspection is necessary to assess a pool safety management plan.

Upon receiving the application, the QBCC has 20 business days in which to decide to approve or refuse the pool safety management plan. The pool owner may be required by the QBCC to provide further information about the pool safety management plan and the measures the pool owner will implement to provide for the safety of young children in and around the pool.

Deciding an application

In deciding the application, the QBCC must consider the pool safety management plan, any further information that may have been requested by the QBCC and these guidelines. The QBCC must not approve the pool safety management plan unless satisfied that the measures in the plan appropriately provide for the safety of young children in and around the pool.

Within five business days of deciding the application, the QBCC must give the owner either:

- notice of the approval, or
- an information notice advising that the pool safety management plan is refused.

Appeals

A pool owner may appeal an information notice about a decision of the QBCC within 20 business days from when the information notice is given. The appeal is to be made to the Building and Development Dispute Resolution Committees. For further information about how to appeal, please contact the Building and Development Dispute Resolution Committees:

Website:

www.hpw.qld.gov.au/construction/BuildingPlumbing/DisputeResolution/Pages/default.aspx

Phone: 1800 804 833

Fax: +61 7 3237 1248

Email: registrar@qld.gov.au

Mail: GPO Box 2457, Brisbane Qld 4001

Annual applications

An approved pool safety management plan is effective for one year after the day it is approved, unless cancelled sooner. The annual application is intended to ensure that the integrity of a pool safety management plan is maintained over time as circumstances change, for example, changes in key pool safety personnel.

Pool owners who have an approved pool safety management plan should consider this timeframe and the time it may take to approve a pool safety management plan when they make subsequent applications to the department. Under pool safety legislation, the pool owner must have an approved pool safety management plan in effect for the pool at all times or have a barrier complying with the pool safety standard.

If there is no pool safety management plan and no pool safety certificate is in effect for a pool associated with a class 3 building, the pool owner will be in breach of pool safety legislation under the BA and may be liable for penalties.

Onsite inspections are proposed to be scheduled at least once every five years. However, where a substantial change to a previous pool safety management plan has been made, an inspection may be required with the relevant application. This does not prevent the QBCC or local governments from conducting audits from time to time.

Cancellation or amendment of an approved plan

If the QBCC is no longer satisfied that the pool safety measures under an approved pool safety management plan appropriately provide for the safety of young children in and around the pool, they may cancel the approved plan or require the owner to amend the plan.

However, the QBCC must first provide the pool owner with a show cause notice advising the owner that they intend to cancel or amend the approval. The owner has 20 business days after the show cause notice is given to make a submission as to why the proposed action should not be taken.

Table 1—Items to assist pool owners developing a plan

A pool safety management plan is to be a simple, clear and easy to read document. Attachments should be avoided except where they enable the plan to be followed by those that need to implement the plan.

Pool owners are responsible for ensuring a pool safety management plan complies with the BA. These items to assist pool owners are intended to act only as a guide for developing a pool safety management plan and are not exhaustive.

Section 1: Warnings	
<p>This section identifies warnings which are in place to alert persons of the dangers associated with pool areas on the property.</p>	
Criteria	Measures
<p>The pool safety management plan should provide clear warnings and rules for all residents, guests, and members of the public about all pools in the property taking into account the variety and number of people who are likely to enter the property, and the need for heightened vigilance and supervisions where pools are unfenced.</p>	<p>Should take into account and adequately address issues such as:</p> <ul style="list-style-type: none"> • number of people • language barriers • site users (i.e. contractors, visitors, employees) • location of warnings (i.e. inside pool area, upon entry, outside pool area such as room and at reception).
<p>Examples of relevant information that may be included in a pool safety management plan application:</p> <ul style="list-style-type: none"> • signs • notices to occupiers, contractors, employees • induction for families with young children. 	
Section 2: Barriers	
<p>This section identifies barriers to prevent persons from entering pool areas on the property including identifying where no barrier exists.</p>	
Criteria	Measures
<p>A pool safety management plan should include a site map identifying all barriers to pools and the level of compliance with the pool safety standard for each section.</p>	<p>Should provide information about:</p> <ul style="list-style-type: none"> • pools that are wholly enclosed by a barrier compliant with QDC MP 3.4 where there are multiple pools onsite • pools that are partly enclosed by a barrier compliant with QDC MP 3.4 including where the compliant parts must be maintained • pools that are enclosed by a barrier that is non-compliant with QDC MP 3.4 and specifying matters of non-compliance • pools not enclosed by a barrier.

Examples of relevant information that may be included in a pool safety management plan application:

- a summary of a pool safety inspector's report indicating matters of non-compliance
- photographs of identified problem areas and areas providing access to the pool
- site plans that indicate pools, barriers and accommodation buildings.

Section 3: Supervision

This section identifies supervisory functions and management procedures the pool owner may utilise for pool areas without barriers, or barriers that do not comply with the pool safety standard.

Criteria	Measures
A pool safety management plan should provide adequate supervision for young people where a pool does not have compliant pool barriers.	Should provide information about: <ul style="list-style-type: none"> • level of supervision (e.g. lifeguard on supervision including hours of operation) • location of supervising person (e.g. are they in a lifeguard tower) • objects which may obstruct the view of the supervising person such as vegetation.

Examples of relevant information that may be included in a pool safety management plan application:

- a summary of expert recommendations
- photographs of identified problem areas and areas providing access to the pool.

Section 4: Immersion response procedures

This section identifies response procedures in the event of an immersion incident, including training and courses which may be attended by employees.

Criteria	Measures
The pool safety management plan should have response procedures for employees to follow in the event of an immersion incident, including undertaking Cardiopulmonary Resuscitation (CPR).	Should provide information about the steps that should be followed in an immersion incident including: <ul style="list-style-type: none"> • critical incident/near miss alerts • how to perform CPR • who is trained to perform CPR (i.e. who is to be trained).

Examples of relevant information that may be included in a pool safety management plan application:

- procedures for employees to follow in immersion incidents
- signs (i.e. CPR, Call 000 in an emergency).

Section 5: Administration procedures

This section identifies all administrative procedures to accurately monitor and review the implementation of the pool safety management plan.

<i>Criteria</i>	<i>Measures</i>
The pool safety management plan should have staff training and audit systems in place to maintain the effectiveness of the plan and to monitor and periodically review operations.	The training and auditing system should include: <ul style="list-style-type: none"> • staff induction procedures including outlining their roles and responsibilities • specified periodic staff training • periodic maintenance inspections • random audits and drills.
Examples of relevant information that may be included in a pool safety management plan application: <ul style="list-style-type: none"> • policy and procedures for administrative functions (i.e. inspections of barriers, rostering) • roles and responsibilities of employees associated with pool areas • rostering for employees responsible for supervision and first aid • incident register that includes reporting of unsupervised toddlers • audit program to assess the effectiveness of the plan. 	

Links and further information

Pool safety website

www.hpw.qld.gov.au/construction/BuildingPlumbing/PoolSafety/Pages/default.aspx

Pool safety guidelines

www.hpw.qld.gov.au/aboutus/ReportsPublications/Guidelines/Pages/PoolSafetyGuidelines.aspx

Pool safety factsheets

www.hpw.qld.gov.au/aboutus/ReportsPublications/FactSheets/Pages/PoolSafetyFactSheets.aspx

Pool safety forms

www.hpw.qld.gov.au/aboutus/ReportsPublications/FormsTemplates/Pages/PoolSafetyForms.aspx

Queensland Building and Construction Commission

www.qbcc.qld.gov.au

Queensland Injury Surveillance Unit

www.qisu.org.au

Queensland Family and Child Commission

www.qfcc.qld.gov.au

Workplace Health and Safety Queensland (Department of Justice and Attorney-General)

www.worksafe.qld.gov.au

The Royal Life Saving Society Australia

www.royallifesaving.com.au