

Building newsflash number 422

Building and Other Legislation Bill 2010, swimming pool safety guidelines and regulatory impact statement

Purpose

To advise the Building and Other Legislation Amendment Bill 2010 (BOLA 2010) has been introduced into Parliament, the regulatory impact statement (RIS) for proposed new pool safety laws is available for public comment and the fourth edition of the swimming pool safety guidelines has been published.

Background

On 14 December 2008, the Queensland Government announced the most comprehensive review of the state's swimming pool safety laws in nearly 20 years. An independent swimming pool safety review committee was then established and presented 23 improvement ideas to the government for consideration. Following extensive public consultation, the government adopted all the swimming pool safety review committee's improvement ideas.

The purpose of the government's improvement strategy is to reduce the incidence of drowning and serious immersion injuries of young children in pools. The improvement strategy is being implemented in two stages to allow industry, local governments and pool owners time to adjust to the changes.

Stage one took effect on 1 December 2009 and includes the adoption of Queensland Development Code (QDC) MP 3.4 for new outdoor residential swimming pools.

Stage two is proposed to commence later this year and includes:

- rationalising of pool standards so that all existing pool fences will have to comply with the pool fencing laws that now apply to new pools
- extending the pool safety laws to pools associated with class 3 and class 4 buildings (e.g. hotels, motels and caretaker residences), caravan parks and indoor pools
- requiring pool safety inspections at the sale and lease of properties that fall within the scope of the new laws.

BOLA 2010

Pool safety

On 15 April 2010 the Queensland Government introduced [BOLA 2010](#) into Parliament.

If approved by Parliament, BOLA 2010 will amend the *Building Act 1975* (BA) to implement the legislative and administrative arrangements for the pool safety inspector licensing system and the state-based pool register. These components of the government's pool safety strategy need to be in place to help ensure a smooth transition of the proposed mandatory point of sale and lease inspection system later in 2010. BOLA 2010:

- establishes a framework for the swimming pool inspector licensing system
- creates an independent body, the Pool Safety Council, to oversee the operation of the swimming pool safety inspector licensing system
- allows trained and licensed swimming pool safety inspectors to conduct pool safety

inspections and issue pool safety certificates if all prescribed requirements are met

- provides an approval process for swimming pool safety inspector training courses and the regulation of training for pool safety inspectors
- establishes a state-based swimming pool register.

A separate Bill is proposed later in 2010 to implement the remainder of the stage two pool safety improvement measures, including the mandatory sale and lease pool safety inspection system.

Ban the banners policy

BOLA 2010 also amends aspects of the government's 'ban the banners' policy that relate to amenity or affordability issues, while retaining those provisions that relate to environmental issues.

The proposed amendments remove the prohibition on a relevant instrument imposing restrictions on amenity related prohibitions, including the number of car parking spaces, minimum roof pitch, external surface finishes and materials and completion timeframes for building, landscaping, fencing, and driveways.

Prohibitions on relevant instruments that impact on environmental outcomes remain. To this end, the provisions provide that a restriction relating to house orientation will only be valid where it is required for energy efficiency purposes.

Current prohibitions relating to minimum floor area remain in place, however, in response to industry representations, requirements for a minimum frontage to preserve street amenity are proposed to be allowed, except where imposing a minimum frontage would result in the construction of less energy efficient house.

The provisions will have no effect on the prohibitions about solar hot water systems, photovoltaic cells, dark coloured roofs, energy-efficient windows and the minimum number of bathrooms and bedrooms.

Miscellaneous amendments

BOLA 2010 also contains miscellaneous amendments to other legislation, including the *Urban Land Development Authority Act 2007*, *Land Title Act 1994* and *Royal National Agricultural and Industrial Association of Queensland Act 1971*.

Swimming pool safety guidelines

The fourth edition of the [swimming pool safety guidelines](#) has been published to incorporate the new pool safety laws which took effect on 1 December 2009.

The guidelines are made under section 258 of the BA. Building certifiers are reminded that, under section 133A of the BA, they must have regard for the guidelines in performing their functions under the BA.

Swimming pool safety RIS

A RIS for certain aspects of the stage two pool safety improvement measures was released for public comment on 13 April 2010. The RIS estimates that over the first 10 years, the estimated average cost for pool owners to upgrade their fences to meet the new standard is \$430. Over the same 10-year period, where pool owners do not comply with the existing pool safety requirements, the average cost for upgrades is estimated to be an extra \$730. A simple, quick and low-cost appeal mechanism will be available where strict compliance is cost prohibitive and physically impractical.

Examples of remedial work required on pool barriers and associated costs include:

- fix window to open no more than 100 mm at a cost of up to \$350
- remove, shield or relocate climbable objects near the barrier (e.g. a tree, lattice or barbeque) at a cost of up to \$600

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- create a fenced enclosure for doors that provide direct access to pool at a cost of up to \$1000
 - increase the height of the fence or boundary fence at a cost of up to \$1400
 - replace the entire fence at a cost of between \$3000 and \$5000 if the existing fence is beyond repair.

The closing date for submissions on the RIS is **16 May 2010**. The RIS can be accessed [online](#) and submissions can be made [online](#).

Submissions can also be posted to:

Attention: Swimming pool safety improvement strategy RIS
Department of Infrastructure and Planning
Building Codes Queensland
PO Box 15009 City East QLD 4002 Australia
tel 1800 153 262 free-call
fax +61 7 3237 1248
buildingcodes@dip.qld.gov.au

A draft amended version of QDC MP 3.4 will be published on the department's website soon to include swimming pools associated with class 3 and class 4 buildings, caravan parks and indoor pools.

Contact for further information

Department of Infrastructure and Planning
Building Codes Queensland Division
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buildingcodes@dip.qld.gov.au

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