

Pool safety inspector guideline

Building Industry and Policy

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Table of contents

Table of contents.....	2
1 Purpose.....	5
2 Scope	5
3 Introduction	5
3.1 Background	5
3.2 Terms and abbreviations	6
3.3 Legislation	8
4 Roles	8
4.1 Pool safety inspector	8
4.2 Queensland Building and Construction Commission	8
4.3 Local government	9
4.4 Building certifier	9
5 Pool safety register	9
5.1 What is the pool safety register	9
5.2 How to search for a property on the register	10
5.3 What to do if you can't find the property address on the register	10
5.4 How to log in to the pool safety register	10
5.5 How to issue a pool safety certificate using the register	10
6 Fencing structures and maintenance	10
6.1 Fencing structures	10
6.2 Electrical safety requirements	11
6.3 Asbestos	11
7 Compliance and technical considerations	12
7.1 Strength and rigidity (metal barriers with vertical members)	12
7.2 Rigidity of windows using reinforced glass	13
7.3 Fire safety laws	13
7.4 Cardiopulmonary resuscitation (CPR) signs	14
7.5 Wet edge or infinity edge pools	14
7.6 Climbable vegetation	15
7.7 Additional clear area	15
7.8 Decommissioning of pools	16
7.9 Chameleon gates	17

7.10 Leaf (swing) gates	18
7.11 Splash proof fencing	18
7.12 Fillets for barriers	19
7.13 Thin objects—are they climbable and do they meet the standard?	19
7.13 ‘Reasonably satisfied’ in Building Act 1975 section 246AW(1)	20
7.14 Classes of buildings	20
7.15 Pools converted to a fish pond	21
7.16 How to measure the effective height of a loop fence	21
7.17 Entrapping spaces	22
8 Pool safety inspection process	22
8.1 Acting on an advisory/consultancy basis	22
8.2 Entering a property	23
8.3 Obtaining relevant facts	23
8.4 Conformity	23
8.5 Nonconformity	24
8.6 Reinspection period	24
8.7 Rural inspections	25
8.8 Destruction of pools	25
9 Minor repairs	25
9.1 General information	25
9.2 Acrylic shielding	26
10 Neighbouring properties and dividing fences	26
10.1 Neighbouring trees and vegetation	26
10.2 Dividing fences	27
11 Pool safety inspector conduct	27
11.1 Code of conduct	27
11.2 Acting in the public interest	27
11.3 Conflict of interest	28
11.4 Grounds for disciplinary action	28
11.5 Review a QBCC decision	28
11.6 Auditing and investigations	28
11.7 Conflict resolution	29
11.8 Mediation	29
12 Repairing, altering, replacing or constructing the pool barrier	29

12.1 Minor (or do-it-yourself) repairs and maintenance by pool owners	29
12.2 Fences for existing pools associated with houses and townhouses – other work not requiring a building approval (section 5, Schedule 2C of the <i>Building Regulation 2006</i>)	30
13 Pool safety inspector licensing	31
13.1 Licence application requirements	31
13.2 Professional indemnity insurance	31
13.3 Licence conditions	32
13.4 Renewing a pool safety inspector licence	32
13.5 Restoring a pool safety inspector licence	33
13.6 Replacing a pool safety inspector licence	33
14 Administrative and commercial issues	33
14.1 Record keeping	33
14.2 Charging for pool safety inspections and minor repairs	33
14.3 Withholding a pool safety certificate	34
15 Exemptions, variations and alternative solutions	34
15.1 Exemptions	34
15.2 Alternative solutions	34
15.3 Variations	34
Appendix 1—Links and further information	35
Code of conduct for swimming pool safety inspectors	35
Fact sheets	35
Forms under the <i>Building Act 1975</i>	35
Legislation	35
Queensland Development Code MP 3.4	35
Queensland Injury Surveillance Unit	35
The Queensland Family and Child Commission	35
Appendix 2—Schedule 2B Minor repairs	36
Appendix 3—Classes of building	38
Appendix 4—Schedule 2C Repairs and maintenance for regulated pools—work a pool owner can perform	39

1 Purpose

The purpose of this guideline is to assist pool safety inspectors in understanding and performing their pool safety inspection functions under the *Building Act 1975* (the Act).

Under section 258 of the Act, the chief executive may make guidelines which help achieve compliance with the Act. The Act provides that in performing a pool safety inspection function, a pool safety inspector must have regard to the guidelines made under section 258 that are relevant to performing the function.

2 Scope

This guideline covers a range of topics relating to the application of Queensland's pool safety laws and the performance of pool safety inspection functions including:

- fencing structures and maintenance
- compliance and technical considerations
- the pool safety inspection process
- minor repairs
- pool safety inspector code of conduct
- administrative and commercial matters.

Supporting fact sheets and guidelines about the pool safety laws are also available on the Department of Housing and Public Works website (the department) at www.hpw.qld.gov.au/PoolSafety. These provide general information and links that are targeted to industry.

A list of resources that may further assist pool safety inspectors in performing their pool safety inspection functions is contained in **Appendix 1** of this guideline.

3 Introduction

3.1 Background

In 1991, amendments to the Local Government Act and Standard Building By-laws required all swimming pools to have a complying fence around it unless the local council granted an exemption. Following the introduction of mandatory pool fencing, the number of child drownings halved.

Since 1991, 11 different standards applied to swimming pools depending on the year of construction. In 2008 the Queensland Government reviewed Queensland's pool safety laws. This review focused on reducing the number of drownings and serious immersion injuries in swimming pools involving children less than five years of age. A swimming pool safety review committee was established comprising representatives from the Queensland Government, local government, industry and child and water safety groups. The committee's task was to consider key areas of swimming pool safety, and provide information about how to improve Queensland's swimming pool safety laws.

The committee provided its report in April 2009 with 23 improvement ideas for Queensland's swimming pool safety laws. In preparing its report the committee considered submissions from a range of stakeholders in addition to interstate and international regulatory systems for swimming pool safety.

After considering the report and the submissions from the public consultation process, the Queensland Government adopted a two-stage swimming pool safety improvement strategy. The strategy included

amendments to the swimming pool safety laws, education programs about the importance of supervising children around pools and encouraging people to teach children to swim at a young age.

Stage one commenced on 1 December 2009 and applied mostly to new residential outdoor swimming pools. It included:

- introducing the latest swimming pool safety standards
- regulating temporary fencing for pools
- mandatory final inspections
- introducing the latest cardiopulmonary resuscitation signage standards.

Stage two commenced on 1 December 2010 and mostly affected existing swimming pools. The stage two measures included:

- the establishment of an independent Pool Safety Council
Note: On 10 November 2014, the Pool Safety Council disbanded and the functions moved over to the Queensland Building and Construction Commission (QBCC).
- a training and licensing framework for pool safety inspectors
- replacing 11 different pool safety standards with one pool safety standard for all regulated pools— Queensland Development Code Mandatory Part 3.4 (QDC 3.4). Both new and existing pools were required to comply with the standard within five years of commencement, or earlier if sold or a lease or other accommodation agreement was entered into prior to 1 December 2015
- a five-year phase out of child-resistant doors used as pool barriers for existing outdoor pools, or earlier if the property was sold or a lease or other accommodation agreement was entered into prior to 1 December 2015
- wider application of pool safety laws to include indoor pools, pools associated with buildings such as hotels, motels, caretaker residences and backpacker hostels (class 3 and 4 buildings—refer to **Appendix 3** of this guideline) and mobile homes, caravan parks and homestay pools
- a sale and lease compliance system, requiring pool safety certificates to be obtained from a licensed pool safety inspector when a property with a pool is sold or a lease or other accommodation agreement is entered into. Pool safety certificates are valid for one year for shared pools and two years for non-shared pools
- requiring all regulated pools to be included in a state-based pool safety register
- fencing for portable pools and spas deeper than 300 millimetres
- mandatory inspections by local governments for immersion incidents of children under five in swimming pools. Hospitals must report these incidents to Queensland Health. The Queensland Ambulance Service may also report the incidents.

3.2 Terms and abbreviations

The following is a list of terms and abbreviations used throughout this guideline. Some definitions have been summarised and for further details readers should refer to the Act.

Accommodation agreement (or lease) An accommodation agreement includes residential tenancy, rooming accommodation and homestay, assisted accommodation agreements or other agreements that give a person a right to occupy a premises in exchange for money or other valuable consideration. The agreement can be written, verbal or implied. Agreements with family members, such as a grandchild boarding with their grandparents, are excluded. An accommodation agreement includes things like renting out a house or unit or letting out a room or bed in a motel, hotel, serviced apartment, resort,

backpacker hostel, caravan park or similar premises. The full definition of accommodation agreement can be located in section 231A of the Act.

AIA *Acts Interpretation Act 1954*

AS Australian Standard

The Act *Building Act 1975*

CPR Cardiopulmonary resuscitation

Indoor swimming pool A pool that is completely enclosed by the walls of a building. It also includes a pool on a deck or roof top of a building if, under the usual ways of entering or leaving the building, the pool is only accessible from inside the building. However, it does not include a pool on a deck that can be accessed from the back yard of a house. The full definition of indoor swimming pool can be located in Schedule 2 of the Act.

Non-shared pool A pool that may be used only by the residents of one dwelling, such as a private house pool or a spa on a unit balcony.

Outdoor pool means a swimming pool other than an indoor swimming pool. See Schedule 2 of the Act.

Pool safety standard The pool safety standard sets out the technical requirements for pool safety barriers and CPR signs. It is contained in the QDC 3.4, Australian Standard 1926-2007 (parts 1 and 2) and the *Building Regulation 2006*.

QBCC Queensland Building and Construction Commission (formerly the Queensland Building Services Authority).

QDC 3.4 Queensland Development Code Mandatory Part 3.4 for Swimming Pool Barriers

Shared pool Where the residents of two or more dwellings constructed, or to be constructed, on regulated land have, or will have a right to use a regulated pool situated on the land. For example a pool situated in a unit complex, hotel, motel or backpacker hostel. See section 231A of the BA.

Swimming pool means an excavation or structure:

- (a) capable of being filled with water to a depth of 300 millimetres 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; or
- (h) a spa bath situated in a bathroom, other than a spa bath continually filled with water to a depth of more than 300 millimetres; or
- (i) a birthing pool used solely for water births. See Schedule 2 of the Act.

3.3 Legislation

Building Act 1975

The principal legislation regulating swimming pool safety in Queensland is the *Building Act 1975*. The Act contains provisions about when a barrier is required and refers to subordinate legislation such as the *Building Regulation 2006* for more technical requirements.

The pool safety standard

The pool safety standard provides the minimum requirements that a swimming pool barrier must meet to comply with Queensland's pool safety laws. In Queensland the pool safety standard is the QDC MP 3.4 and AS 1926-2007 as modified by the QDC, as well as any other standard prescribed under a regulation for ensuring the safety of persons using a regulated pool.

Later versions of the Australian Standard do not apply in Queensland unless they are adopted by a new version of the Code.

4 Roles

4.1 Pool safety inspector

Pool safety inspectors are licensed by the QBCC to perform the pool safety inspection functions set out in the Act for regulated pools. Pool safety inspection functions are defined in section 231C of the Act as doing any of the following:

- inspecting a regulated pool to decide whether to give a certificate (a pool safety certificate) that states the pool is a complying pool
- carrying out minor repairs relating to a regulated pool arising from an inspection of the pool
- giving a pool safety certificate for a regulated pool
- giving a nonconformity notice for a regulated pool.

This definition establishes the limits of the pool safety inspector's role, and it is important for pool safety inspectors to act only within the scope of the powers provided by the Act.

The Act provides a number of circumstances where penalties may be incurred by a pool safety inspector for breaches of the Act. Where a penalty is not stated under the Act, contravention of that section may also be grounds for disciplinary action as decided by the QBCC.

4.2 Queensland Building and Construction Commission

The QBCC is an independent statutory authority which oversees the pool safety laws. The QBCC is responsible for the following in relation to pool safety inspectors:

- licensing
- receiving and investigating complaints
- auditing
- disciplinary action
- maintaining a register.

The QBCC's contact details are:

phone: 139 333

email: poolssafety@qbcc.qld.gov.au

post: GPO Box 5099, Brisbane QLD 4001

The department continues to manage the policy and legislation relating to pool safety.

4.3 Local government

Local government performs several key functions relating to the enforcement of pool safety laws. Where a pool is not a complying pool, local government has the ability to take necessary enforcement action to ensure the pool is made to comply. This may be the result of an inspection following an immersion notice from Queensland Health, a complaint notice or a notice from the QBCC. Local government may also cancel an existing pool safety certificate for a pool where it reasonably believes it is not a complying pool.

Local governments have other powers relating to pool safety laws including the ability to decide and grant an exemption from a particular part of the pool safety standard on the basis of disability or impracticality.

4.4 Building certifier

Building certifiers may apply for a pool safety inspector licence without needing to complete the pool safety inspector training course. When performing the role of a pool safety inspector, building certifiers can carry out the same functions, and are bound by the same requirements, as all other pool safety inspectors.

Building certifiers and pool safety inspectors are both permitted to assess compliance with the pool safety standard. However, only a building certifier is qualified to issue a final inspection certificate (Form 17) for a new swimming pool or other major pool alterations requiring a building development application. In doing this, they may assess and advise on matters not dealt with in the pool safety standard such as wind load capacities and fire safety.

5 Pool safety register

5.1 What is the pool safety register

The pool safety register is a state-wide database available online at www.qbcc.qld.gov.au/home-building-owners/pool-safety/find-pool-safety-inspector-search-property-psi-login. The register comprises a record of all regulated swimming pools in Queensland.

The purpose of the register is to provide local government, pool safety inspectors, the department, the QBCC, pool owners, property agents and the general public with a central source of information about pools, pool safety certificates and pool safety inspectors.

Authority to enter data into the register is restricted to local government, the department, the QBCC and pool safety inspectors. The QBCC has administrative access to the register to approve pool safety inspector licence applications and other key functions. The QBCC can also enter any record of disciplinary action taken against a pool safety inspector, including any tribunal order made against a pool safety inspector. This information is available to the public.

5.2 How to search for a property on the register

A pool safety inspector should always endeavour to obtain the correct details for a property they have inspected. This practice contributes to efficient customer service and the accuracy and integrity of the pool safety register.

A pool safety inspector can search by lot on plan, street address or map to locate a property on the register. Searching by lot on plan is the most accurate way to locate a property. These details can generally be found on the property owner's rates notice, or through the local government. The accepted format for searching by lot on plan includes: 12RP123456, 100SP789101 or 56W23456. Inspectors must ensure the street address on the register reflects the physical address of the pool, and that all property details are listed and correct before issuing a certificate.

5.3 What to do if you can't find the property address on the register

If a property address is not found on the register, a pool safety inspector can use the 'add this location' function to enter the property details. The pool safety inspector will then have to wait for approval of the property address. Approval should generally take no longer than one working day. If the property is not accepted, the pool safety inspector can select 'view decision' for tailored advice on how to locate the property on the register.

5.4 How to log in to the pool safety register

Pool safety inspectors can log in to the pool safety register using the 'inspector login' function at www.qbcc.qld.gov.au/home-building-owners/pool-safety/find-pool-safety-inspector-search-property-psi-login. If a pool safety inspector's login is unsuccessful, they should select the 'forgot password' option and a new password will be sent to their email address.

5.5 How to issue a pool safety certificate using the register

- (1) Log in to the pool safety register.
- (2) Search for the inspected property.
- (3) When the property details are returned, select 'issue certificate' from the left-hand menu. (Note that property details may have to be updated on the register before this occurs.)
- (4) Enter the required information.
- (5) Once payment has been processed, via credit card or existing balance, the pool safety certificate will be generated and available for viewing on the register.
- (6) Download the pool safety certificate PDF. This needs to be printed, signed and issued to the property owner.

6 Fencing structures and maintenance

6.1 Fencing structures

Pool barriers can be made from a number of materials in a number of configurations. It is important to be aware of trends throughout the pool industry over time, as pool safety inspectors may be required to

inspect fences ranging from those that are decades old to more contemporary glass and aluminium barriers.

A nonconformity notice must contain information about what must be done to make the pool a complying pool. Familiarity with ongoing trends and developments will be important in assisting an inspector to provide a variety of options to make barriers of all ages and configurations compliant with the pool safety standard.

6.2 Electrical safety requirements

Electrical safety requirements apply to all electrical equipment, pool fencing support structures and other fixed conductive material near a pool. They also cover fencing erected after the pool electrical equipment and ancillary fittings have been installed.

In general, pool fences and support structures situated closer than 1250 millimetres to swimming pools may require connection of an equipotential bond (earthing). Equipotential bonding joins together all the conductive parts in and near the pool, such as the steel reinforcing in the shell and handrails, and connects them to an earthing point. This greatly reduces the risk of electric shock should an electrical fault occur. The installation of an equipotential bond is electrical work and may only be undertaken by a licensed electrical contractor.

The specific requirements are outlined in the Wiring Rules Standard (Australian Standard 3000). The requirements are dependent on a number of factors which include, but are not limited to, the arrangement of electrical equipment associated with the pool (such as pool pumps and filters), the existence of an equipotential bond to the reinforcing metal of the pool shell, when the pool fence was installed and the distance the pool fence is away from the pool. Only a licensed electrical contractor can assess compliance with the Wiring Rules.

It is important, from a workplace health and safety perspective, for pool safety inspectors performing minor works on metal and other conductive pool barriers to be mindful of correct earthing of the barrier. A pool safety inspector may, for example, insist on evidence of correct earthing before undertaking minor repairs.

Compliance with the pool safety standard is a separate matter to compliance with the Wiring Rules. Consequently a pool barrier cannot be deemed noncompliant with the pool safety standard solely because it does not satisfy the Wiring Rules.

6.3 Asbestos

Some pool fencing, especially older barriers, may be constructed from hazardous materials such as asbestos. The Queensland Government has strict requirements relating to the removal of, and working with, asbestos and asbestos products. Pool safety inspectors should be aware of the *Work Health and Safety Act 2011*, subordinate legislation and standards if working around fencing constructed of hazardous materials.

For more information on asbestos go to www.health.qld.gov.au/asbestos.

7 Compliance and technical considerations

7.1 Strength and rigidity (metal barriers with vertical members)

When assessing the strength and rigidity of a barrier, pool safety inspectors should consider whether the barrier is sufficiently strong and rigid to resist access by a child.

Pool safety inspectors should consider the following when assessing pool barriers that are metal fence panels with vertical members.

The first two recommended steps in assessing the strength and rigidity of the barrier are to conduct a:

1. visual inspection to detect obvious defects or deformities, and
2. manual 'squeeze' test of vertical members using the pool safety inspector's non-dominant (weaker) hand at the midsection of the vertical members and at a randomly selected panel of the fence. Where the fence appears to be constructed from different types of panels or from panels that have been added to the fence at different times, a pool safety inspector should check each different type of panel or panels that were added at different times. The squeezing action applied should be a moderate strength action equivalent to the pressure applied during a firm handshake and not a vigorous or full strength squeezing action. The pool safety inspector should remember the required level of resistance to a deforming force only needs to be sufficient to deter a young child pushing through the barrier.

A visual inspection will detect whether some members in an otherwise conforming fence have been widened after installation, for example by an impact such as a ball being kicked into the fence. Inspectors should also be mindful that some older fences will have a 100 millimetre gap between vertical members. These fences are more likely to fail a strength and rigidity test than a more recently designed fence with an 80 millimetre gap. Accordingly, for a fence with 80 millimetre gaps, a greater amount of deformation will be allowed for a compliant fence.

The 'squeeze' test (manually squeezing upright members together) conducted at random locations along the fence can show the ease with which the fence can be deformed. That could be sufficient to decide whether the barrier would appropriately restrict access of young children and meet the pool safety standard.

AS 1926.1-2007 limits spacings to 100 millimetres. It requires the spacing to be maintained below 105 millimetres under a deforming force of up to 150 newtons that is applied by the conical end of a 105 millimetre diameter cylindrical solid-faced test object being pulled through the midspan of a fencing panel. The application of the testing for strength and rigidity described in Appendix A of the AS 1926.1-2007 is impractical for maintenance testing in the field. For field testing it is recommended that pool safety inspectors use the squeeze test described above. A pool safety inspector may accept that vertical members remain compliant where the horizontal deformity of vertical members in a direction away from the next adjacent vertical member that is not being squeezed does not result in a gap that exceeds 105 millimetres.

Where the pool safety inspector follows this procedure and is satisfied the vertical members pass the visual inspection and squeeze tests, it is reasonable for the pool safety inspector to conclude the fence complies with the pool safety standard's strength and rigidity requirements without further testing.

Where the pool safety inspector considers the visual inspection and squeeze test results are inconclusive he or she may request the owner to obtain evidence of suitability (or a Form 15) from the manufacturer. If evidence of suitability or a Form 15 is available the pool safety inspector may reasonably accept that the fence panel containing the vertical members complies with the pool safety standard's strength and rigidity

requirements without further testing. Where the pool safety inspector considers the visual inspection and squeeze test results are inconclusive and evidence of suitability or a Form 15 are not available, a further third step for testing may be considered using an in-situ mechanical test.

A manual pull-through cone test may be used as a guide to a barrier's strength and rigidity. However, it is important to be aware that the pull-through cone test does not replicate the laboratory conditions that are specified in Appendix A of AS 1926.1-2007. Using an in-situ pull-through test is not recommended unless further testing is indicated as being required after the visual and squeeze tests. It should be remembered that although a pull-through test may provide additional evidence, the on-site pull through test results are not conclusive.

Depending on the way the pull-through cone test is applied, the results may vary and consequently the readings may be inaccurate and incorrectly indicate failure of a compliant barrier. Tests should be done with properly calibrated equipment. Pull through tests should be conducted at the correct angle, at the panel's midspan and with an evenly applied and steadily increasing force.

If the pool safety inspector considers that the vertical members fail, taking into account the limitations on the mechanical device that is used to conduct the test, the pool safety inspector may require further testing or that the non-compliant panels be replaced with compliant panels. Alternatively, sheeting material may be affixed to the fence to cover the vertical spacings and so increase rigidity. Where a pool safety inspector advises a pool owner to affix a horizontal rail to the vertical members to increase its rigidity, a 900 millimetre non-climbable zone needs to be maintained.

7.2 Rigidity of windows using reinforced glass

Section D2(d) of Appendix D in AS1926.1–2007 states that it is necessary to ensure that sheet material, including reinforced glass, is sufficiently rigid and adequately fixed to its frame.

Glass components forming part of a swimming pool barrier are not required by the pool safety standard to have any particular safety or identification markings displayed on them. These components may comply with the pool safety standard even though they bear no safety or identification markings. In general, windows installed in Australian buildings meet a specific wind-load rating, which exceeds the pool safety standard requirements for a window used as a component of a pool barrier.

In general, if there is no deformity in the glass, it is reasonable for a pool safety inspector to be satisfied that it is sufficiently rigid.

If, for some reason, a pool safety inspector is not reasonably satisfied that the glass components comply with the strength and rigidity requirements of the pool safety standard, the pool safety inspector may request that the pool owner obtain a report from a suitable expert. This could include a professional glazier, who may certify that the glass complies with the relevant requirements of the pool safety standard or provide options for achieving compliance, such as installation of security screens.

7.3 Fire safety laws

There will be some circumstances where the pool safety laws may impact upon fire safety measures. In these cases, more detailed analysis is required to develop a solution that accommodates the separate laws. For example, if a fire exit for a building provides direct access to an outdoor pool area, a barrier may be required between the pool area and fire exit to satisfy the pool safety standard.

Fire doors and exits must be clearly marked in accordance with the Building Code of Australia. Under no circumstances should a fire door or exit be locked or blocked in order to meet the pool safety

requirements. If a pool safety inspector is unsure whether the pool safety requirements will interfere with fire safety measures in particular instances, they should contact a building certifier for specific advice.

In certain cases where it is impossible to meet the requirements of both the pool safety laws and the fire safety laws, the pool owner may make an application to their local government for an *impracticality exemption* (refer to section 15 of this guideline).

7.4 Cardiopulmonary resuscitation (CPR) signs

From 1 January 2017 all new CPR signs, which includes signs for pools being built or if a CPR sign is being replaced, must comply with 'ANZCOR guideline 8 – cardiopulmonary resuscitation' published in January 2016.

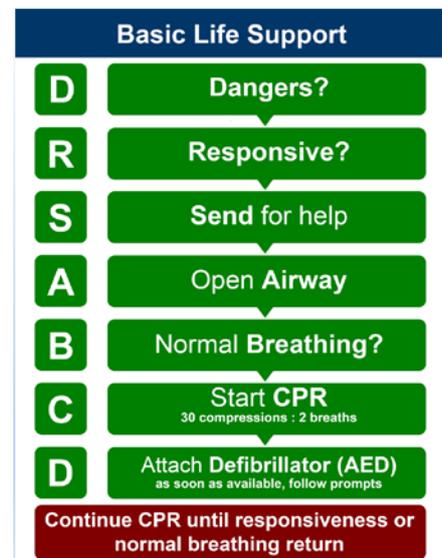
If an existing pool displays a CPR sign which complies with the Australian Resuscitation Council's *Guideline 7—cardiopulmonary resuscitation* published in February 2006, they can continue to use this sign after 1 January 2017. However, once the sign becomes illegible or is replaced after 1 January 2017 it must comply with 'ANZCOR guideline 8 – cardiopulmonary resuscitation' published in January 2016.

Under section 13A of the *Building Regulation 2006* a CPR sign must be clearly and conspicuously displayed near the pool. The sign must be at least 300 millimetres by 300 millimetres in size, be made of a durable and weatherproof material and clearly state what to do in an emergency.

Pool safety inspectors and homeowners have asked about how many steps must be included on the CPR sign to ensure it complies with the pool safety standard. If the information contained in the sign is compliant with the relevant guideline, it does not matter if the information is relayed in eight or ten steps, so long as the information matches the guideline.

7.5 Wet edge or infinity edge pools

A 'wet edge' or 'infinity edge' pool gives the illusion that the pool water extends into the horizon and vanishes, see **photograph 1** below. These types of pools often have water running over the edge of a pool into a holding tank or filter tank. These tanks are essential to the pool's normal operation and, although not intended for swimming or aquatic activity, are considered part of the pool. Where holding tanks have a depth of 300 millimetres or more, they must have a complying barrier. Where the holding tank has a depth of less than 300 millimetres, the side of the pool above this tank must meet the requirements for a barrier contained in the pool safety standard. For example, a minimum height of 1200 millimetres and a 900 millimetre non-climbable zone.





Photograph 1: A 'wet edge' or 'infinity edge' pool

7.6 Climbable vegetation

The pool safety standard specifically allows bushes that are not climbable to be located in the non-climbable zone. Bushes with dense, spiked, thorned, rough or otherwise irritating or hindering foliage that would deter a young child from climbing are also acceptable. They are acceptable even where the bushes conceal or contain thick branches that could hold a young child's weight provided the branches are impractical for a young child to reach or use to climb the barrier. Also, bushes or shrubs that are fragile or crush easily or are so weak that a child could not climb them are acceptable. Thick bushes that provide an additional obstacle and prevent the child from seeing the pool make that barrier more effective and are acceptable. Palm fronds that bend easily so that they will not support a child's weight are also acceptable.

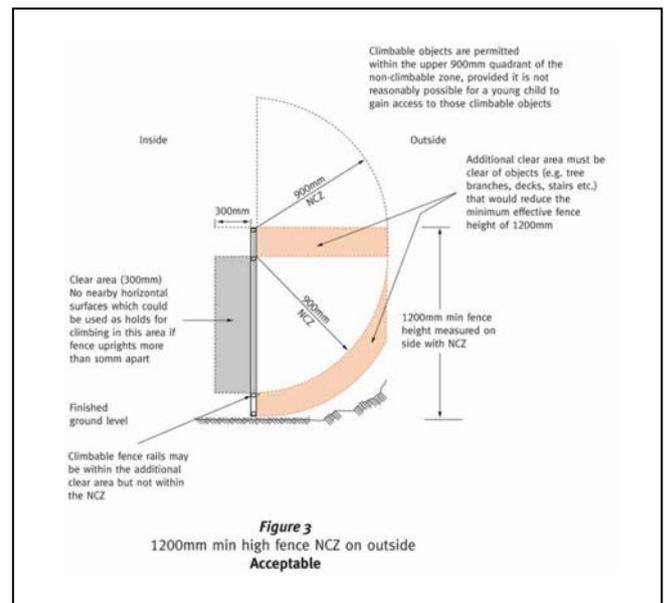
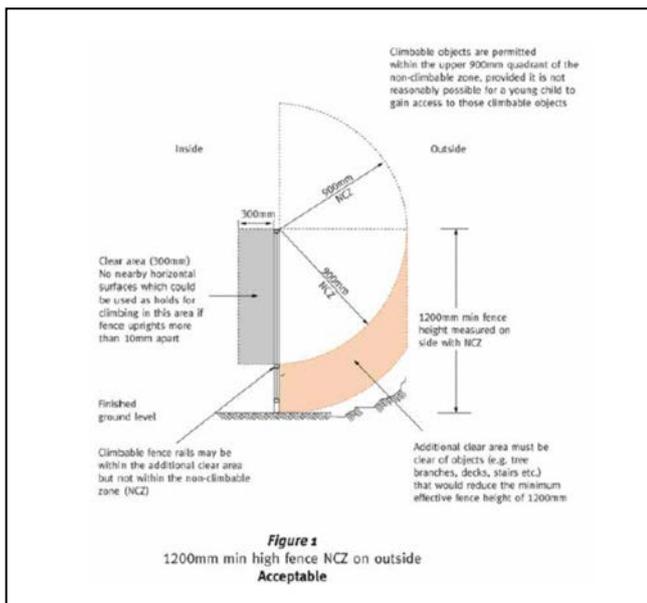
A bush, shrub or tree with a thick (more than 10mm width and substantially horizontal) exposed branch in the non-climbable zone is acceptable if the substantially horizontal branch is removed. The bush, shrub or tree does not need to be removed. Stumps or bushes that are cut back may be climbable and it is preferable to retain foliage that will deter young children or to remove exposed stumps. Where bushes, shrubs or trees remain inside a non-climbable zone, owners are responsible for monitoring them and trimming any substantially horizontal branches that do become exposed, so as to prevent children climbing them.

7.7 Additional clear area

The QDC MP 3.4 requires the inclusion of an 'additional clear area' where the barrier is less than 1800 millimetres high. The 'additional clear area' must be clear of objects (tree branches, decks, stairs, rocks etc.), that would reduce the minimum effective fence height of a barrier to less than 1200 millimetres. Part of a pool safety inspector's responsibility is to identify these additional clear areas and to be familiar with the restrictions applying in these areas.

The 'additional clear area' (being a total of 300 millimetres wide) is an area adjacent to the non-climbable zone. The 'additional clear area' can be located in a single width as depicted in figure 1 of the QDC MP 3.4 or two separated widths as depicted in figure 3 of the QDC MP 3.4, so long as the effective fence height equates to 1200 millimetres.

The following figures are from the QDC.



Unlike the non-climbable zone, the 'additional clear area' may have climbable objects within the area, so long as they do not reduce the effective height. For example climbable fence rails may be within the 'additional clear area' but not within the non-climbable zone. The effective height of the fence is the measurement from the ground level to the top of the barrier. Objects that would reduce the effective height of a 1200 millimetre fence could include furniture, large rocks, decks or stairs, these items are not permitted within the 'additional clear area'.

To measure the 'additional clear area' at the base of a barrier pool safety inspectors should extend a tape measure 900 millimetres perpendicular to the base of the fence (on the side of the non-climbable zone) and mark the 900 millimetre distance to identify the true vertical mark. Mark the tape at 1200 millimetres and extend the tape from the top of the fence and hold it above the true vertical mark. Now make an arc with the tape towards the fence and this will indicate the bottom of the additional clear area.

Taps, power outlets etc. within the additional clear area of the pool fencing?

The QDC MP 3.4 states 'the additional clear area must be clear of objects that would reduce the minimum effective height of 1200 millimetres'.

A pool safety inspector is responsible for making this determination on a case by case basis. For example, objects like taps or power outlets that have a projection or indentation of more than 10 millimetres are generally considered climbable but may not reduce the effective height. Objects such as rocks, decks and stairs within an additional clear area can reduce the effective height, because if the height of the fence is measured from the surface of the rock, deck or stair to the top of the barrier it would be less than 1200 millimetres.

7.8 Decommissioning of pools

There will be occasions where a pool owner will decide that they no longer want a swimming pool. If a pool owner intends to decommission their swimming pool so that there is no need to comply with the standard, the swimming pool structure must be altered in a way that makes the pool incapable of being filled to a depth of 300 millimetres. For example, the floor of a spa may have holes drilled into the water receptacle component to permit water to drain out, or one side of a swimming pool may be removed.

For swimming pools (including portable spa pools) to be decommissioned the work must result in the pool requiring structural repair work to render it capable of holding water to a depth of 300 millimetres. For example a wall or the floor of the water receptacle may be demolished. For a portable spa, the drainpipe may be removed, because it would render the spa incapable of holding water without structural repair work, which includes the drain pipe.

If a swimming pool is completely filled with dirt to make it incapable of being filled with 300 millimetres of water then it does not satisfy the definition of swimming pool.

If only cosmetic repair work is required, then the pool will not have been validly decommissioned. For example, a spa with a timber lid nailed or glued into place with industrial glue would still be considered a swimming pool. This is because the simple step of removing the lid would reveal the structure of the spa intact and capable of being filled with water.

If a pool safety inspector is asked by a pool owner how a pool may be decommissioned, it is recommended that the pool safety inspector refer the pool owner to the QBCC for advice.

7.9 Chameleon gates

The prime feature of a chameleon gate is that it is a free-standing structure located outside the building line of the house but so close to the house that when closed it provides a complete barrier to anyone seeking to exit the house via the opened door of the house (**photograph 2**).

On 17 January 2005, the Queensland Planning and Environment Court (the Court), considered an appeal concerning a development application for a swimming pool and fencing which included 'chameleon pool gates' as part of the fencing. The matter concerned a development application for a swimming pool and fencing at Twin Waters, and in particular the installation of 'chameleon pool gates' as part of the fencing. The application was refused by the local government, upon the basis that the 'gates' in question were in reality 'child resistant doorsets' which are not permitted to be used in Queensland.

In this case the Court found that the chameleon gates provided direct access to the pool area from the building, which is not permitted in Queensland.

Although the decision was made some five years before the commencement of the current pool fencing laws (on 1 December 2010) the relevant law regarding 'direct access' has remain unchanged under the current law.

Chameleon gates do not meet the requirements of the pool safety standard and are not permitted to be used in any part of a pool barrier for outdoor pools.



Photograph 2: Example of a chameleon gate (*photograph provided by Phil Montague*).

7.10 Leaf (swing) gates

A pool safety inspector may come across ‘twin leaf’ or ‘swing’ gates during the course of pool safety inspections. Leaf gates can comprise either one gate leaf or two, hinged to a fixed point (vertical pillar or post) and can be opened manually or remotely by electronic means.

Pursuant to the Act, all pool gates must be self-closing and fitted with a latching device that will automatically operate on closing of the gate and will prevent it from being reopened without being manually released (refer sections 2.5.3 and 2.5.4 of AS1926.1-2007). A twin-leaf gate can only be self-closing and self-latching if one of the leaves is permanently fixed or there is a permanent post or fixture between the two leaves (gates) and each gate leaf is self-closing and self-latching.

To permanently fix one side for this purpose, it is not satisfactory to use padlocks or dropbolts. For permanent fixing, dynabolting or its equivalent is necessary. Any type of gate that does not self-close and self-latch in accordance with AS1926.1-2007 is not compliant.

7.11 Splash proof fencing

Under the Queensland Development Code Mandatory Part 1.2 A2(e), if the area of a property lot/plan is greater than 450 metres squared and the pool is within 1.5 metres of the boundary fence, a splash proof barrier must be present (see **Diagram 1**).

The ‘splash proof barrier’ must be a solid wall or fence, constructed to prevent water entry onto adjoining lots, be at least 1.8 metres high above finished ground level and erected between the swimming pool and the boundary of the lot.

Further, the top of the barrier must be at least 1 metre above the top of the coping of the pool. Splash proof fencing is not part of the pool safety standard and so a pool safety inspector cannot decline to give

a pool safety certificate solely on the basis of a failure to provide such a barrier. This is provided as general information only.

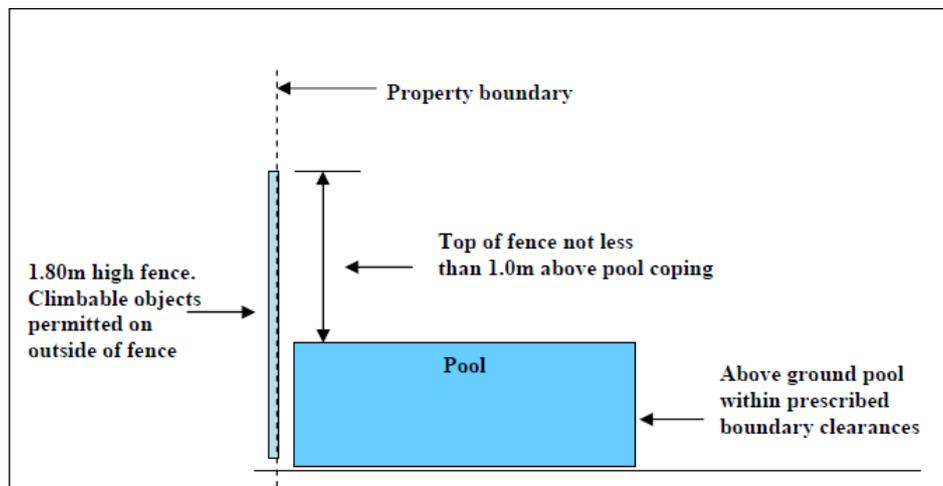


Diagram 1: Splash proof barrier

7.12 Fillets for barriers

Section 2.3.4 of AS1926.1-2007 and standard modification 13 of QDC MP 3.4 refer to the use of horizontal climbable members in a barrier less than 1800 millimetres in height. These sections provide that horizontal members cannot be within the non-climbable zone where the components are located on the outside of the fencing and could be used as holds for climbing. It also states that if the vertical members are spaced to allow an opening of greater than 10 millimetres in width then the horizontal members must be a minimum of 900 millimetres apart.

Clause 2.3.5 of AS1926.1-2007 provides an alternative to compliance with clause 2.3.4 of the AS1926.2007, and permits the use of fillets on the horizontal members to prevent a child climbing and the use of vertical member spacings of no more than 10 millimetres. The use of a fillet in these circumstances is depicted in Figure 2.4 of AS1926.1-2007. The top edge of a fillet that complies with Figure 2.4 forms a point and as such is not climbable.

7.13 Thin objects—are they climbable and do they meet the standard?

Clause 2.3.3 of AS1926.1-2007 allows indentations and projections in the NCZ that are no more than 10 millimetres. The top edge of fillets and projecting clips on downpipes that are no more than 10 millimetres in depth, or are not substantially horizontal, are acceptable under the pool safety standard. Horizontal surfaces that have a depth of no more than 10 millimetres but a width greater than 10 millimetres should be considered on a case by case basis for climbable aspects (such as footholds). For example, objects such as cable ties are acceptable if they are no more than 10 millimetres in width or do not provide a substantial foothold or handhold. It would generally be reasonable to conclude for example that a young child could not use a 12 millimetre length of cable tie, affixing for example a CPR sign to a pool barrier, as a toehold to support their weight.

When assessing whether an object (such as a cable tie) is climbable, the sharpness, material, angle and strength of the object should be taken into consideration.

7.13 'Reasonably satisfied' in Building Act 1975 section 246AW(1)

Section 246AW(1) of the Act provides that a pool safety inspector may give a pool safety certificate for a regulated pool only if they have inspected the pool and are 'reasonably satisfied' that the pool is a complying pool.

The term 'reasonably satisfied' in this section does not permit minor departures or 'tolerances' from the pool safety standard. 'Reasonably' refers to the level of satisfaction that a pool safety inspector must have before determining that a pool complies fully with the standard.

Example

A pool safety inspector measures a large percentage of the gaps between vertical members in a metal loop fence and finds them all to be less than the required minimum of 100 millimetres and no excessive gaps are apparent from an overall visual inspection of the barrier. The pool safety inspector issues a pool safety certificate. It transpires that due to a manufacturing fault one of the gaps which the pool safety inspector did not measure was 103 millimetres wide. The pool safety inspector may contend in a case like this, that they were reasonably satisfied the pool was a complying pool. If however they happened to discover the 103 millimetres wide gap before issuing the pool safety certificate, the pool safety inspector could not later contend that they were reasonably satisfied the pool was a complying pool.

7.14 Classes of buildings

The QDC 3.4 MP states that certain classes of buildings are permitted in a pool area. Standard modification 29 in Schedule 1 and Figure 25 of QDC 3.4 provides that class 5-10 buildings are permitted within a pool enclosure. (*Note: direct access cannot be provided to an outdoor pool area through a building of any class*).

The classification of a building is determined by a licensed building certifier. Since 1976 legislation has required a certificate of classification to be issued for a building or structure. Prior to 1976 buildings or structures were classified by the local government. The local government's decisions were based on local by-laws.

Building certifiers classify the main use of a building or structure, for example a detached house is a class 1a or a gymnasium may be a class 9b building. Generally if the size of the floor space is less than 10 per cent of the main use the building or structure may be given the same classification. For example if a gymnasium exceeds 10 per cent of the floor space of a detached house it will be classified as a class 9b building. However if the gymnasium is less than 10 per cent of the floor space it may be classified as the same class of main use being a class 1a.

A pool safety inspector will need to identify the class of a building in or near the pool area to provide advice about whether a building or structure can be permitted within a pool area. To achieve this it is recommended that pool safety inspectors look at the building or structure and see if it meets the description in the Building Code of Australia.

Appendix 3 contains information about classes of building a pool safety inspector may encounter, as defined in the Building Code of Australia.

If a pool safety inspector is unsure about the classification of a building, then they can ask the property owner if they have a certificate of classification. If the property owner does not know the classification they may wish to make enquiries with their local council. If neither the property owner nor the local council can provide a certificate of classification, the pool safety inspector may nominate a classification for the purpose of the inspection using **Appendix 3** as a guide.

7.15 Pools converted to a fish pond

A pool safety inspector may be asked for advice about converting a swimming pool into a fish pond, which essentially removes the requirement for a pool barrier. When providing advice it is important to refer to the definition of swimming pool. The first part of the definition for swimming pool states the following:

Swimming pool means an excavation or structure:

- a) capable of being filled with water to a depth of 300 millimetres 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:

(Note: the complete definition of swimming pool is stated in schedule 2 of the Act)

According to the definition, if the basic excavation or structure was designed, manufactured or adapted as a swimming pool, then it is not a fish pond. This applies regardless of the current use, including whether it contains fish.

Therefore, significant building work is necessary to convert an existing swimming pool to a fish pond and this will require a building development application.

If a building development application to convert a swimming pool to a fish pond receives final inspection approval by a local government or a private building certifier, who certifies that the structure is no longer a swimming pool, then the structure no longer meets the definition of 'swimming pool'.

Please also see section 7.8 Decommissioning of pools.

7.16 How to measure the effective height of a loop fence

Section 2.1 of the Australian Standard 1926.1-2007 provides that the effective barrier height shall be not less than 1200 millimetres. Where the fence panel or barrier has a horizontal surface at the top and bottom of the barrier the effective height is measured perpendicular to the finished ground level. However it is more difficult to identify where the top of the effective height is located on a curved surface, for example the loop fence.

Section 2.3.7 of the Australian Standard 1926.1-2007 provides that the clear space between vertical members shall not exceed 100 millimetres at any point. Therefore if a measuring tape is placed on the ground and a measurement is taken to a height of 1200 millimetres, no vertical gaps should exceed 100 millimetres. Because the loop at the top of the fence generally creates gaps greater than 100 millimetres the measurement should not be taken at the top of the loop.

The height should be measured from the finished ground level to the point where the curvature begins at the top of the fence as demonstrated in **Diagram 2** below.

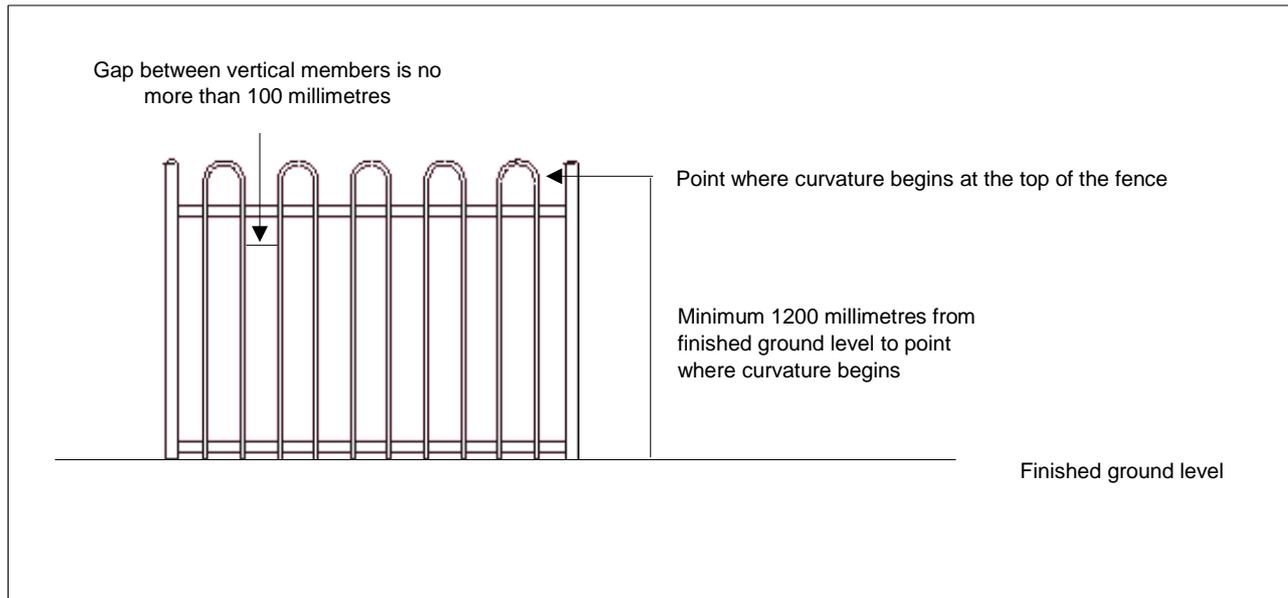


Diagram 2

7.17 Entrapping spaces

Section 2.2 of the QDC MP 3.4 provides that, among other hazards, a barrier shall be free of entrapping spaces.

An entrapping space is a space where a child could trap a part of their body in a way that could potentially cause serious injury or death. An example of an entrapping space could be a gap between the top of a gate support post and an adjacent panel of fencing. If a child attempts to open the gate latch with the aid of a chair, the child may fall and trap the child's head in this space. This entrapment space has the potential to cause a serious injury or death.

8 Pool safety inspection process

8.1 Acting on an advisory/consultancy basis

A pool safety inspector may be engaged to advise or consult with a pool owner about the pool's compliance with the pool safety standard generally, as opposed to being engaged to give a pool safety certificate or a nonconformity notice.

If a pool safety inspector is engaged to advise or consult only:

- the pool safety inspector is not obliged to give a pool safety certificate if the pool complies or a nonconformity notice if the pool does not comply.
- the pool owner is free to engage another pool safety inspector at a subsequent time. This may be contrasted with the situation where the pool safety inspector is engaged to inspect a pool for the purpose of giving a pool safety certificate or a nonconformity notice. In such a case the pool owner is not permitted to engage an alternative pool safety inspector within three months of a nonconformity notice being given without written approval from the QBCC. This restriction is intended to prevent pool owners from 'shopping around' for a pool safety inspector.

A pool safety inspector who is only engaged to advise or consult with a pool owner about the pool's compliance with the pool safety standard should consider their duty to act in the public interest and may decide to notify the local government of noncompliance where the circumstances pose a serious safety risk.

A pool safety inspector should take care to ensure the scope of their engagement is always clearly documented. They should not agree to providing an advisory or consulting service (a 'pre-inspection inspection') and subsequently agree to give either a pool safety certificate or a nonconformity notice for the same pool. They should advise the pool owner that another pool safety inspector ought to be engaged to complete this function. By following this practice, the pool safety inspector will avoid any allegation that they were engaged to carry out the statutory pool safety inspection function and failed to give a pool safety certificate or a nonconformity notice within the required time after the inspection, which would expose them to disciplinary action.

8.2 Entering a property

A pool safety inspector does not have any right of entry powers and may only enter onto land to inspect a pool if invited by the pool owner or their agent.

8.3 Obtaining relevant facts

When undertaking a pool safety inspection, a pool safety inspector must take all reasonable steps to obtain any information or documentation that may affect the assessment of the pool barrier, such as exemptions, variations or alternative solutions that may apply to the pool.

This, however, excludes any building approval or building development application for the pool, barrier, or other building on the property. A pool safety inspector cannot refuse to issue a pool safety certificate for an otherwise complying pool on the grounds that there is no development approval in place for the pool work.

8.4 Conformity

If a pool safety inspector has inspected a regulated pool for the purpose of giving a pool safety certificate and is satisfied the pool complies with the pool safety standard, they must give the owner a pool safety certificate (Form 23) within two business days of the inspection.

A pool safety certificate must have a unique identification number, be signed by the pool safety inspector giving the certificate and must be recorded on the pool safety register by the pool safety inspector.

One pool safety certificate should be issued per property. Where there are multiple pools on a single property for example, a pool and a spa, all pools must comply before a pool safety certificate can be issued.

Definition of a single property - All properties have a unique lot on plan number. For properties consisting of both individually owned units, and common land/property (for example owned by a body corporate), there will be multiple lot on plan numbers. One lot on plan number will exist for the common property and separate lot on plan numbers will exist for each unit.

Therefore, if a pool safety inspector is inspecting one or multiple shared pools for a body corporate, they should issue one certificate for the common property. If a person in the complex then requests an inspection for a non-shared pool on their individual property (for example, a private spa on a unit balcony), a certificate should be issued reflecting the lot on plan for that unit alone.

8.5 Nonconformity

If a pool safety inspector has inspected a regulated pool for the purpose of giving a pool safety certificate and is not satisfied the pool complies with the pool safety standard, they must give the owner a nonconformity notice (Form 26) within two business days of the inspection. The nonconformity notice must state how the pool does not comply with the pool safety standard and what needs to be done to make it comply.

A pool safety inspector is not required to give the pool owner a nonconformity notice if:

- they reinspect the pool within two days after initial inspection and is satisfied that the pool now complies, or
- the owner and pool safety inspector agree that the pool safety inspector will carry out minor repairs within 20 business days of the original inspection and the pool safety inspector has carried out the repairs.

If the agreed minor repairs are not undertaken by the pool safety inspector within 20 business days, or if they reinspect the pool within the two-day period and are not satisfied it complies, the pool safety inspector must, within a further two business days, give a nonconformity notice to the pool owner.

If a pool safety inspector fails to give a nonconformity notice as required by law and raises this section of the Act as a defence, it would be expected that some documentation or other evidence, for example a quote, would be available to prove the agreement existed. Pool safety inspectors are advised to keep documentation of these agreements in the event a complaint is investigated by the QBCC involving the failure to issue a nonconformity notice.

8.6 Reinspection period

After receiving a nonconformity notice, a pool owner has a three month period (the reinspection period) in which to ask the pool safety inspector to reinspect the pool. If the owner fails to do this, the pool safety inspector must, within five business days after the end of the reinspection period, notify the local government of the failure by providing a copy of the nonconformity notice.

If the pool owner asks the pool safety inspector to reinspect the pool during the reinspection period, the pool safety inspector must do the reinspection within five business days, or later if agreed.

A pool safety inspector cannot disengage a pool owner or elect not to reinspect the pool if requested to do so by the pool owner during the reinspection period. Once a pool owner has engaged the services of a pool safety inspector, the Act prevents the pool owner from engaging another pool safety inspector for three months without written approval of the QBCC. If a pool safety inspector is aware that they will be unavailable to reinspect a pool due to, for example, a planned holiday, they should advise the pool owner to apply to the QBCC to be permitted to change pool safety inspectors or make arrangements for another pool safety inspector to reinspect the property.

If a pool safety inspector conducts a reinspection and determines that the pool is still noncompliant, they must issue a further nonconformity notice and a further three month reinspection period then applies. This sequence may be repeated so long as the owner continues to ask for a reinspection within the reinspection period and the pool continues to be noncompliant. Where this occurs, the pool safety inspector is not obliged to give any notice to the local government about the pool's noncompliance. However, the pool safety inspector should consider their duty to act in the public interest and may decide to notify the local government of the noncompliance, especially where the circumstance pose a serious safety risk.

This practice does not affect any legal obligation that the owner may have to obtain a pool safety certificate within a particular time frame. For example, a pool safety certificate must be obtained prior to entering an accommodation agreement.

8.7 Rural inspections

To help address the logistical difficulties of inspecting pools in remote areas, the remote local governments listed in schedule 2A of the *Building Regulation 2006* can declare parts of their area as remote by passing a resolution. Local governments can only declare an area as remote if they are satisfied that the area is remote from the business premises of persons who perform pool safety inspection functions. However, there is no obligation for these local governments to declare any area as remote. A pool safety inspector should contact the relevant local government if they wish to check whether a particular pool is in an area declared as remote.

Where a pool safety inspector is engaged to inspect a pool in a declared remote area, they do not need to carry out an on-site inspection of the pool, and may inspect the pool using suitable technology (e.g. streamed video footage). The pool safety inspector must still be satisfied that the pool complies using these methods.

8.8 Destruction of pools

If a pool owner is demolishing a swimming pool, they may be required to lodge a building development application depending on the scope of the works involved. The application can be lodged with either the local government or a private certifier.

It is recommended that pool safety inspectors dealing with pool owners in this situation advise owners to contact their local council or private certifier to discuss the procedures and charges.

The QBCC will remove a pool from the register if a pool safety inspector confirms there is no pool at the property or the pool owner notifies the QBCC in writing that the pool no longer exists.

9 Minor repairs

9.1 General information

A pool safety inspector and pool owner can agree for the pool safety inspector to carry out minor repairs to make the pool comply with the pool safety standard. However, a pool safety inspector can only carry out minor repairs if they hold an unconditional licence.

Schedule 2B of the *Building Regulation 2006* (**Appendix 2**) defines minor repairs and accordingly limits the repairs a pool safety inspector can carry out. In addition, the pool safety inspector must be suitably licensed by the QBCC to carry out work that exceeds \$3300 in value.

A building development approval is not required for permitted minor repairs undertaken by a pool safety inspector, but the works must still comply with the pool safety standard. Examples of the type of minor repairs that can be carried out include erecting, repairing, replacing or adjusting a maximum of five metres and no more than six posts of a pool safety barrier. The five metre and six post requirements do not apply for:

- installing capping along the top of a barrier to raise the height of the barrier
- laying paving under a barrier to reduce the gap under the barrier
- installing, repairing, replacing or adjusting a gate

- protecting a window or door, such as installing a fixed security screen on a window
- shielding climbable components of the barrier.

When performing minor repairs, a pool safety inspector must not solicit minor repairs where those works are not necessary for the pool barrier to comply with the pool safety standard. They may recommend that certain work be undertaken for the continued maintenance of the pool barrier, however the distinction between recommended work and work necessary to gain a pool safety certificate must be clear.

9.2 Acrylic shielding

Schedule 1, item (1) of the *Building Regulation 2006* provides that minor repairs are prescribed (i.e. not requiring a development approval) if the work consists of minor repairs mentioned in schedule 2B. In general, minor repairs are no more than five metres and no more than six posts. However, schedule 2B does provide a number of exemptions where these measurements do not apply. For example, schedule 2B, section 1 (2)(c) does permit the installation of acrylic shielding along a barrier to comply with the strength and rigidity requirements of the pool safety standard regardless the length of barrier being shielded or the number of posts. However, a pool safety inspector can only carry out minor repairs if they are suitably licensed, i.e. they hold a pool safety inspector's licence with no condition prohibiting them from performing minor repairs and, where the value of work exceeds \$3300, a relevant QBCC licence.

10 Neighbouring properties and dividing fences

10.1 Neighbouring trees and vegetation

It is always the responsibility of the pool owner (not the neighbour) to ensure their pool complies with the pool safety standard.

If the neighbour's side of the fence does not comply with the pool safety standard, the pool owner must either:

- raise the fence to a height of 1800 millimetres or more and ensure a non-climbable zone is located on their side of the fence or
- construct a separate complying pool barrier entirely within their own property.

If the branches of a neighbouring property's tree or other vegetation overhang the pool owner's property, the pool owner may be legally able to remove the overhanging parts at their own cost, but the pool owner is not legally entitled to enter the neighbour's land to do this without the neighbour's consent. It is important when removing branches or vegetation to take care not to damage the tree, other vegetation or the neighbouring property.

It is recommended that pool owners speak to their neighbour first and attempt to reach an agreement before taking any action regarding overhanging tree branches or other vegetation.

Consideration must also be given to any tree or vegetation protection orders that may exist under a state or local law over the neighbour's tree, which may prevent the removal of branches or vegetation without permission from the relevant authority.

Further information about vegetation protection orders, overhanging tree branches and other vegetation can be obtained from the local government.

If the tree or vegetation is on public land the relevant authority (e.g. local government) should be contacted. A permit may be required from the relevant authority before removing branches, trees or

vegetation on the public land, such as a footpath, park or walkway, that overhang the pool owner's property.

10.2 Dividing fences

Often boundary fences form part of the pool barrier. In these cases, the pool safety standard still applies to the part of the boundary fence being used as part of the pool barrier. The boundary fence must be a minimum of 1200 millimetres high and have a complying non-climbable zone. However, it is important to note that if the fence is less than 1800 millimetres in height the non-climbable zone must be on the outside of the fence (neighbour's side). A pool owner is unable to control the actions of a neighbour and therefore has no control of the non-climbable zone. If the fence is 1800 millimetres or higher, the non-climbable zone can be on the inside.

The wall of a building on a common boundary may also be used as part of a pool barrier if it complies with the pool safety standard. Pool safety inspectors should be aware that a pool owner is generally not permitted to alter the building without the owner's consent. Where any part of the wall does not meet the requirements of the pool safety standard, the pool owner may need to construct a separate barrier.

11 Pool safety inspector conduct

11.1 Code of conduct

The Act allows the chief executive to make a code of conduct for pool safety inspectors.

The code sets standards of conduct to be observed by pool safety inspectors when performing pool safety inspection functions. Contravention of the code of conduct may be grounds for disciplinary action under the Act.

A copy of the code of conduct for pool safety inspector can be located on the departmental website at www.hpw.qld.gov.au/aboutus/ReportsPublications/Guidelines/Pages/PoolSafetyGuidelines

11.2 Acting in the public interest

A pool safety inspector must always act in the public interest, even if doing so would not be in their client's favour. The term 'public interest' is a legal term and has been defined as the interest to the public at large or a significant portion of the public (Butterworths Legal Dictionary, 2001).

A pool safety inspector would not be acting in the public interest if they:

- sought, accepted or agreed to accept a benefit (whether their own benefit or someone else's) as a reward or inducement to act other than as permitted under the Act
- acted in a way contrary to a function of the pool safety inspector under the Act
- acted outside the scope of their powers under the Act
- contravened the code of conduct for pool safety inspectors
- acted in a way, in relation to the pool safety inspector's practice, that is grossly negligent or grossly incompetent.

The following are examples of how a pool safety inspector must behave:

- **Example 1:** A pool safety inspector must not give a pool safety certificate in return for obtaining a guarantee of conducting all pool inspections for a particular real estate agent.

- **Example 2:** Where the purchaser engages a pool safety inspector to inspect a pool prior to signing the contract, the pool safety inspector must not add unnecessary items to the Form 26 at the purchaser's request.
- **Example 3:** The pool safety inspector must correctly apply the relevant laws and standard.

11.3 Conflict of interest

A pool safety inspector must not perform a pool safety inspection function if there is a conflict of interest. For example, a pool safety inspector would have a conflict of interest if they:

- carried out building work for the pool, other than minor repairs
- are the owner or a lessee of the building on, or the owner of a lot in, the subject land
- have a direct or indirect pecuniary interest in the building on the subject land.

11.4 Grounds for disciplinary action

Pool safety inspectors should be aware of what constitutes grounds for disciplinary action. If grounds for disciplinary action are established the QBCC may take disciplinary action against the pool safety inspector. This may involve reprimanding a pool safety inspector, paying a monetary penalty to the QBCC, or suspending a pool safety inspector's licence for up to 12 months. Grounds for disciplinary action against a pool safety inspector are set out in full in Schedule 2 of the Act and include:

- conduct that shows a lack of adequate judgement, diligence or care in performing pool safety inspection functions
- contravening the code of conduct
- conduct that is of a lesser standard than the standard that might be reasonably be expected of a pool safety inspector by the public or the pool safety inspector's professional peers.

11.5 Review a QBCC decision

A pool safety inspector or complainant may apply to either the QBCC or Queensland Civil and Administrative Tribunal to review a decision made about a pool safety inspector. For further information about the review process contact the QBCC on 139 333.

11.6 Auditing and investigations

The QBCC has an auditing program in place to ensure pool safety inspectors maintain a high standard of ethical and professional conduct in performing pool safety inspection functions. The Act also provides that the QBCC may investigate pool safety inspectors.

The investigation process generally involves:

- obtaining the complainant's version of events
- conducting a site inspection
- interviewing the pool safety inspector
- collecting all available evidence
- submitting the matter to the QBCC for consideration.

The Act requires a pool safety inspector who is being investigated or audited to assist in, and cooperate with, the investigation/audit. This may involve the pool safety inspector responding to QBCC correspondence in a timely manner or agreeing to provide his or her version of events to the investigator. Penalties may apply to a pool safety inspector who fails to cooperate in an investigation or audit, or misleads or obstructs the investigation/audit.

In the course of an investigation or audit, an investigator may also require a pool safety inspector to produce or provide relevant documents. A pool safety inspector is obliged, under the Act, to comply with this request unless they have a reasonable excuse.

11.7 Conflict resolution

The nature of the role of a pool safety inspector requires active listening skills and an understanding of how to resolve conflict. In situations where conflict or disagreements arise, a pool owner may seek resolution or action through tribunals and courts. However, it is preferable that disputes are settled before this stage because of the time and cost impositions involved for all parties.

Dispute resolution services are available, including those facilitated by the Department of Justice and Attorney-General. Information is available from www.justice.qld.gov.au/justice-services/dispute-resolution.

11.8 Mediation

Where a complaint has been made against a pool safety inspector, the QBCC may recommend that the pool safety inspector and the complainant participate in mediation to resolve the matter. Attendance at and participation in mediation is voluntary. If the mediation process is successful and the parties agree to a resolution to the complaint, the complaint is taken to be withdrawn and will not require investigation by the QBCC.

12 Repairing, altering, replacing or constructing the pool barrier

Most new pools, especially those built after 1 December 2009, should already comply with the pool safety standard. Pools built since 1991 should need little work to make them comply, provided they have been well maintained and do not allow direct access from a building to an outdoor pool. Pool owners with doors allowing direct access to an outdoor pool ('child-resistant doors'), will be required to erect an isolating barrier by 30 November 2015, or earlier if the property is sold or leased, in order to comply with the pool safety standard.

Other common rectification works may include removing climbable objects from near the pool barrier, adjusting gates to make them self-close and self-latch, raising the fence height or adjusting gates to ensure they do not swing towards the pool area.

Before performing significant fencing works, pool owners are responsible for ensuring that any necessary building approvals are obtained from a private certifier or a local government.

12.1 Minor (or do-it-yourself) repairs and maintenance by pool owners

Pool owners and other persons can carry out their own pool safety repairs and maintenance within certain limits without a building approval. These are in sections 1-4 of Schedule 2C of the *Building Regulation 2006* (see **Appendix 4**). Where the estimated value of building work (including labour and materials) is \$11 000 or more, a QBCC owner builder permit is required. For more information about this, visit the QBCC website www.qbcc.qld.gov.au.

A building approval is not required for these pool barrier repairs and maintenance, but they must still comply with the pool safety standard. Examples of the type of repairs and maintenance that can be carried out include:

- repairing or adjusting a maximum of 2.4 metres and two posts of a pool safety barrier
- affixing shielding (of any length) to make the barrier comply with the pool safety standard (for example, to make the fence non-climbable or to address insufficient strength and rigidity)
- installing capping along the top of a barrier to raise the height of the barrier
- laying paving under a barrier to reduce the gap under the barrier
- repairing, replacing or adjusting a gate
- protecting a window or door, such as installing a fixed security screen on a window
- removing or shielding climbable objects in the non-climbable zone.

A pool owner may carry out work relating to the whole of a barrier for certain pools (see Schedule 2C (**Appendix 2**) and 12.2 below), but only if the pool owner has a pool safety inspector issue a nonconformity notice and subsequently issue a pool safety certificate for the pool.

12.2 Fences for existing pools associated with houses and townhouses – other work not requiring a building approval (section 5, Schedule 2C of the *Building Regulation 2006*)

Red tape reduction measures which took effect on 27 July 2012 allow, in certain circumstances, a pool owner to construct, replace, repair or adjust the whole or part of a fence for an existing pool without a building approval. (See section 5, Schedule 2C, set out in **Appendix 4**).

This applies to fences not higher than two metres for existing, non-shared pools on land on which a class 1a building (see **Appendix 3** for a full explanation of building classifications) is, or is to be, constructed.

There is an exception to the two metre height limit – if the fence is higher than two metres only because it is located on an existing retaining wall, class 1a or 10 building (e.g. a shed or garage), or another existing structure. The work can be carried out if:

- the fence itself is no higher than two metres above the wall, building or structure, and
- no part of the fence that is higher than two metres about its natural ground surface is within 1.5 metres of the boundary of the property.

The procedure differs depending on whether the pool already complies with the pool safety standard before the work commences.

The owner of a pool that does not already comply must—before starting work on the fence—engage a pool safety inspector to issue a Form 26.

It is an offence for the owner performing work under this procedure not to have the pool reinspected by a pool safety inspector within the three month reinspection period for the Form 26. The issue of a Form 26 helps to ensure that the owner has advice about the works necessary to make the fence comply with the pool safety standard. If the pool still does not comply on inspection, the pool safety inspector will issue a further Form 26, and a further inspection will be required within three months.

The owner of a 'complying pool' – that is a pool that has a pool safety certificate, or a valid building certificate, or which already complies with the pool safety standard – must, before starting the work, contact a pool safety inspector and arrange for the pool to be inspected within three months of the date when the owner contacted the pool safety inspector. It is an offence for the owner not to have the pool

inspected by a pool safety inspector within three months of the date on which the owner arranged the inspection.

Temporary fencing

A temporary fence may be used to maintain an adequate level of safety where a pool fence has been removed and a new fence is being constructed. Local governments enforce this requirement.

Under the pool safety standard, a temporary fence means a fence which is not a permanent structure, has at least one gate, otherwise complies with the pool safety standard and is securely fixed to resist reasonably foreseeable actions to which it may be subjected, for example, high winds, collisions etc.

In general a temporary fence may be used instead of a permanent barrier for a new pool, for up to three months, provided it is inspected and approved by a building certifier. It may be used for further periods of up to three months with written approval by a building certifier.

The temporary fencing requirements differ for building work done under Schedule 2C, section 5 of the *Building Regulation 2006*. (That is fencing work that a pool owner may perform without a building approval for an existing pool associated with a house or townhouse outlined above in this section 12.2.) In these circumstances, a temporary fence may be used instead of a permanent barrier for an initial period of up to three months. A temporary fence may be used for a second three month period but only if a pool safety inspector has issued a Form 26 in relation to the pool at the end of the first three-month period. The fence may be used for further periods of up to three months, but only if a pool safety inspector or a building certifier has given written approval, has inspected the fence and is satisfied that the safety of young children would not be at risk if the approval were given.

13 Pool safety inspector licensing

13.1 Licence application requirements

An individual may apply to become a licensed pool safety inspector by making an application to the QBCC in the approved form and accompanied by each of the following:

- the application fee prescribed under a regulation
- the fee for the licence prescribed under a regulation
- evidence of the applicant's identity
- a copy of the applicant's certificate of competency for an approved training course
- evidence that the applicant has passed the approved pool safety inspector test
- evidence that the applicant has the prescribed professional indemnity insurance

A pool safety inspector licence remains in force for one year, unless it is earlier cancelled, suspended or surrendered under the Act.

13.2 Professional indemnity insurance

The requirements for prescribed professional indemnity insurance are contained in section 16B of the *Building Regulation 2006*.

The *Building Regulation 2006* provides that a pool safety inspector must have, among other things, a minimum limit of indemnity of \$1 million during one period of insurance that may arise from the performance by the pool safety inspector of a pool safety inspection function.

Policies may be scrutinised during the application process to ensure strict compliance with this provision, especially where the policy covers multiple pool safety inspector licensees.

Where a policy names a company as the insured party, a pool safety inspector will be required to provide a signed declaration from the broker or insurer confirming that the policy provides indemnity to the named individual licensee. Where the policy covers multiple pool safety inspector licensees, it is recommended that the initial letter name all pool safety inspector licensees covered by the policy and details of currency.

For building certifiers who may already have cover in place for carrying out building certification services, it is necessary to provide a signed letter from the broker or insurer confirming that the policy covers pool safety inspection functions.

The QBCC does not have jurisdiction over the conduct of insurers or brokers. If a pool safety inspector has concerns about the conduct of an insurer or broker, he or she may refer their concerns to the relevant ombudsman.

13.3 Licence conditions

A pool safety inspector licence can contain a condition that prevents the pool safety inspector from carrying out prescribed minor repairs. To obtain an unconditional licence, a pool safety inspector licence applicant must demonstrate that he or she is experienced in performing manual work or repairs. If an applicant holds one of the following QBCC licences, this may be considered evidence of experience:

- Builder - low rise
- Builder - medium rise
- Builder - open
- Carpenter
- Builder Restricted to Structural Landscaping
- Builder Restricted to Swimming Pool Construction
- Glass, Glazing and Aluminium
- Non-Structural Metal Fabrication and Installation
- Structural Landscaping Restricted To Fences
- Structural Landscaping (Trade)
- Structural Metal Fabrication and Erection
- Swimming Pool Construction, Installation and Maintenance.

13.4 Renewing a pool safety inspector licence

A pool safety inspector licence will expire one year after it is issued at which time the pool safety inspector must apply for a renewal. A renewal application cannot be made after the licence expires. However, if a pool safety inspector applies for a renewal prior to their licence expiring but the licence expires before the QBCC has made a decision, the licence is taken to continue in force from the day it would have expired until the application is decided.

A renewal application must be made to the QBCC in the approved form and accompanied by each of the following:

- the fee prescribed under a regulation
- evidence of the applicant's identity
- evidence that the applicant has the prescribed professional indemnity insurance
- evidence of any required continuing professional development.

13.5 Restoring a pool safety inspector licence

If a pool safety inspector licence expires and the person has not applied for a renewal, the person may, within three months of the licence expiring, apply for restoration of the licence. The application must be made to the QBCC in the approved form and accompanied by the following:

- the fee prescribed under a regulation
- evidence of the applicant's identity
- evidence that the applicant has the prescribed professional indemnity insurance
- evidence of any required continuing professional development.

13.6 Replacing a pool safety inspector licence

A pool safety inspector may apply to the QBCC in the approved form for the replacement of a pool safety inspector's licence if it has been damaged, destroyed, lost or stolen. If the QBCC is satisfied the licence has been damaged, destroyed, lost or stolen, the QBCC must replace it with another licence and on payment of the fee prescribed under a regulation, give the applicant the replacement licence.

14 Administrative and commercial issues

14.1 Record keeping

The Act requires a pool safety inspector to keep properly documented reasons for decisions relating to their pool safety inspection functions. An inspector must, for at least five years from the date a pool is inspected, keep an adequate record of the inspection.

Examples of documentation that must be kept include:

- fact findings, for example, reliance on the results of tests carried out
- details of any exemptions, variations, appeals or alternative solutions that apply to the pool
- photographs, video recordings, drawings and reports

It is important for a pool safety inspector to be able to substantiate any decision made in respect to a pool safety inspection. This may involve keeping comprehensive records of areas of nonconformity, or key compliance areas of the pool barrier such as gate latches and spaces between vertical members. Furthermore, a pool safety inspector should consider duplicating or making 'back-up' records, for example, taking written notes at an inspection in addition to dictation on a mobile phone or similar device. A pool safety inspector may be asked to produce this document as part of an investigation by the QBCC, for example, where local government has disputed the validity of a pool safety certificate.

14.2 Charging for pool safety inspections and minor repairs

The Act does not prescribe a fee that pool safety inspectors can charge for a pool safety inspection. Inspection and possible reinspection charges are matters of negotiation between the pool safety inspectors and the pool owner. However, the code of conduct does prohibit pool safety inspectors from charging excessive or unreasonable amounts for performing minor repairs. Pool safety inspectors must abide by professional, moral and ethical standards expected by the community and should be mindful of this when stipulating the details of any agreement with a client.

14.3 Withholding a pool safety certificate

The failure to pay an account is a matter of contract between a pool safety inspector and the pool owner. If the pool complies, the pool safety inspector has an absolute obligation to provide a certificate as required under section 246AA of the Act whether or not they have been paid.

15 Exemptions, variations and alternative solutions

15.1 Exemptions

Any fencing exemptions (other than disability exemptions that are still valid) that were given for pools by a local government are no longer valid once the current safety standard applies to the pool.

However, if a pool safety inspector inspects a pool and believes that strict compliance with the pool safety standard would be impracticable, such as where part of a building would need to be demolished to provide a complying barrier, the pool safety inspector may recommend that the pool owner apply to their local government for an impracticality exemption.

Local government can only grant an impracticality exemption to the extent reasonably necessary to overcome the impracticality associated with compliance. A pool owner may therefore still need to comply with most aspects of the pool safety standard.

If a valid disability or impracticality exemption is in place for a property, a pool safety inspector must take this into account when assessing compliance of the pool barrier with the pool safety standard. Local governments must keep a record of each exemption that is granted and pool safety inspectors can check with the local government to confirm whether or not an exemption is in force.

15.2 Alternative solutions

An alternative solution to the pool fencing standards can only be applied by a licensed building certifier during the pool's development approval stages. Alternative solutions can vary widely and are used where the acceptable solutions cannot be achieved.

15.3 Variations

Under the Act, a pool owner may apply to the chief executive to vary the way the pool safety standard applies. The application will be assessed by the chief executive to determine whether or not the variation will achieve an equivalent degree of safety as the pool safety standard. Applications are assessed on a case by case basis and a decision notice will be issued to the applicant.

Any variations previously given under section 41 of the Act (or under any similar previous provisions) relating to matters covered by the current pool safety laws ceased to apply when the standard took effect for the pool—1 December 2015 or earlier if the property was sold or a lease or other accommodation agreement was entered into.

Appendix 1–Links and further information

Code of conduct for swimming pool safety inspectors

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

Fact sheets

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

Forms under the *Building Act 1975*

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

Legislation

www.legislation.qld.gov.au

Queensland Development Code MP 3.4

www.hpw.qld.gov.au/construction/BuildingPlumbing/Building/BuildingLawsCodes/QueenslandDevelopmentCode/Pages/QueenslandDevelopmentCodeCurrentParts

Queensland Injury Surveillance Unit

www.qisu.org.au

The Queensland Family and Child Commission

www.qfcc.qld.gov.au

Appendix 2—Schedule 2B Minor repairs

1 Minor repairs of barriers for a regulated pool

- 1) Repairing, replacing or adjusting part of the existing barriers for a regulated pool is prescribed if –
 - (a) the repairing, replacing or adjusting of the part is carried out to comply with the pool safety standard; and
 - (b) the part repaired, replaced or adjusted is no longer than a total of five metres and includes no more than six posts.
- 2) Subsection (1)(b) does not apply to the following minor repairs to the barriers for a regulated pool –
 - (a) reducing a gap under the barriers other than by lowering the panels or palings of the barriers;
Example of reducing a gap under the barriers for the pool – laying paving to reduce the gap under the barriers
 - (b) increasing the height of the barriers for a regulated pool other than by raising the panels or palings of the barriers;
Example of increasing the height of the barriers for the pool – installing capping along the top of the barriers
 - (c) installing shielding material.
- 3) Also, erecting a new part of the barriers for a regulated pool is prescribed if –
 - (a) the erecting of the part is carried out to comply with the pool safety standard; and
 - (b) the part erected is no longer than a total of five metres and includes no more than six posts.
- 4) The work prescribed in subsections (1) and (3) includes the
 - (a) repairing, replacing or adjusting loose or damaged palings for the barriers for the pool;
 - (b) raising the panels of the barriers for the pool to increase the height of the barriers;
 - (c) lowering panels of the barriers for the pool to reduce a gap under the barriers;
 - (d) replacing brackets or other fixings for panels of the barriers for the pool;
 - (e) erecting a new part of the fencing to join two existing parts of the barriers for the regulated pool.

Examples for paragraph (e) –

- erecting a new part of the barriers for a regulated pool to create a corral outside a self-closing door that opens into a pool area
- installing a new part of the barriers for a regulated pool between an existing dividing fence for the land and a wall of a building that forms part of the barriers for the pool

2 Minor repairs of gates

- 1) Repairing, replacing, adjusting or installing a gate in the barriers for a regulated pool is prescribed if the repairing, replacing, adjusting or installing of the gate is carried out to comply with the pool safety standard.
- 2) The work prescribed in subsection (1) includes the following –
 - (a) replacing, adjusting or installing strikers or latches;
 - (b) tightening, adjusting or installing hinges to ensure they are capable of holding the gate;
 - (c) tightening, adjusting or installing a self-closing mechanism on a gate to ensure the gate self-closes;
 - (d) replacing, repairing, adjusting or installing hinges to ensure a gate self-closes;
 - (e) making alterations to a gate to change the direction of the gate's swing;
 - (f) installing a new gate in a new part of the barriers for the pool.

3 Minor repairs of protected windows and doors

- 1) Protecting a window or door is prescribed if the protecting of the window or door is carried out to comply with the pool safety standard.
- 2) The work prescribed in subsection (1) includes the following –
 - (a) permanently disabling a window or door opening;
 - (b) stopping a window or door from opening more than 100 millimetres;
 - (c) installing a security screen for a window or door;
 - (d) inserting rivets, screws or chocks in windows;

(e) removing tracks and running gear from a window or door.

4 Non-climbable zone works

- 1) Minor works to protect the barriers for a regulated pool, including the fencing or a gate for the pool, or an object adjacent to the barriers, is prescribed if the minor work is carried out to ensure a person is not able to climb the barriers for the pool.
- 2) The work prescribed in subsection (1) includes the following –
 - (a) installing shielding material that is suitably durable to protect footholds in the barriers for the pool;
 - (b) adding return barriers to a barrier that is a permanent body of water;
 - (c) removing a climbable object adjoining the barriers for the pool;
 - (d) installing shielding material that is suitably durable on a part of the barriers for the pool that adjoins a retaining wall;
 - (e) closing gaps between a part of the barriers for the pool and another part of the barriers for the pool or a dividing fence for the land;
 - (f) installing material to make the barriers for the pool non-climbable;
 - (g) installing shielding material that is suitably durable in front of a latch on a gate;
 - (h) removing or shielding footholes or other climbable objects that affect the barriers for the pool;
 - (i) trimming or removing trees, branches or vegetation on or adjoining the barriers for the pool.

Appendix 3—Classes of building

Classes of buildings		
Class 1	Class 1a	A single dwelling being a detached house, or one or more attached dwellings, each being a building, separated by a <i>fire-resisting</i> wall, including a row house, terrace house, town house or villa unit.
	Class 1b	A boarding house, guest house, hostel or the like with a total area of all floors not exceeding 300 m ² , and where not more than 12 reside, and is not located above or below another dwelling or another Class of building other than a private garage.
Class 2	A building containing 2 or more sole-occupancy units each being a separate dwelling.	
Class 3	A residential building, other than a Class 1 or 2 building, which is a common place of long term or transient living for a number of unrelated persons. <i>Example: boarding-house, hostel, backpacker's accommodation or residential part of a hotel, motel, school or detention centre.</i>	
Class 4	A dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.	
Class 5	An office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.	
Class 6	A shop or other building for the sale of goods by retail or the supply of services direct to the public. <i>Example: café, restaurant, kiosk, hairdressers, showroom or service station.</i>	
Class 7	Class 7a	A building which is a carpark.
	Class 7b	A building which is for storage or display of goods or produce for sale by wholesale.
Class 8	A laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale or gain.	
Class 9	A building of a public nature -	
	Class 9a	A health care building, including those parts of the building set aside as a laboratory.
	Class 9b	An assembly building, including a trade workshop, laboratory or the like, in a primary or secondary school, but excluding any other parts of the building that are of another class.
	Class 9c	An aged care building.
Class 10	A non-habitable building or structure -	
	Class 10a	A private garage, carport, shed or the like.
	Class 10b	A structure being a fence, mast, antenna, retaining or free standing wall, swimming pool or the like.
	Class 10c	A private bushfire shelter.

Appendix 4—Schedule 2C Repairs and maintenance for regulated pools—work a pool owner can perform

1 Repairs and maintenance of barriers for a regulated pool

- (1) Repairing or adjusting part of the existing barriers for a regulated pool is prescribed if—
 - (a) the repairing or adjusting of the part is carried out to comply with the pool safety standard; and
 - (b) the part repaired or adjusted is no longer than a total of 2.4 metres and includes no more than two posts.
- (2) Subsection (1)(b) does not apply to the following repairs or maintenance to a barrier for a regulated pool –
 - (a) reducing a gap under the barriers for the pool other than by lowering the panels or palings of the barriers;
 - I. *Example of reducing a gap under the barriers for the pool* – laying paving to reduce the gap under the barriers
 - (b) increasing the height of the barriers for a regulated pool other than by raising the panels or palings of the barriers;
 - II. *Example of increasing the height of the barriers for the pool* – installing capping along the top of the barriers
 - (c) installing shielding material;
 - (d) work mentioned in section 5 of this schedule.
- (3) The work prescribed in subsection (1) includes the following—
 - (a) repairing, replacing or adjusting loose or damaged palings for the barriers for the pool;
 - (b) raising the panels of the barriers for the pool to increase the height of the barriers;
 - (c) lowering panels of the barriers for the pool to reduce a gap under the barriers;
 - (d) replacing brackets or other fixings for panels of the barriers for the pool.

2 Repairs of gates

- (1) Repairing, replacing or adjusting a gate in the barriers for a regulated pool is prescribed if the repairing, replacing or adjusting of the gate is carried out to comply with the pool safety standard.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) replacing, adjusting or installing strikers or latches;
 - (b) tightening, adjusting or installing hinges to ensure they are capable of holding the gate;
 - (c) tightening, adjusting or installing a self-closing mechanism on a gate to ensure the gate self-closes;
 - (d) replacing, repairing, adjusting or installing hinges to ensure a gate self-closes;
 - (e) making alterations to a gate to change the direction of the gate's swing.

3 Repairs of protected windows and doors

- (1) Protecting a window or door for a regulated pool is prescribed if the protecting of the window or door is carried out to comply with the pool safety standard.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) permanently disabling a window or door opening;
 - (b) stopping a window or door from opening more than 100 millimetres;
 - (c) installing a security screen for a window or door;
 - (d) inserting rivets, screws or chocks in windows;
 - (e) removing tracks and running gear from a window or door.

4 Non-climbable zone works

- (1) Work to protect the barriers for a regulated pool, including the fencing or a gate for the pool, or an object adjacent to the barriers, is prescribed if the work is carried out to ensure a person is not able to climb the barriers for the pool.
- (2) The work prescribed in subsection (1) includes the following –
 - (a) installing shielding material that is suitably durable to protect footholds in the barriers for the pool;

- (b) removing a climbable object adjoining the barriers for the pool;
- (c) installing shielding material that is suitably durable on a part of the barriers for the pool that adjoins a retaining wall;
- (d) closing gaps between a part of the barriers for the pool and another part of the barriers for the pool or a dividing fence for the land;
- (e) installing material to make the barriers for the pool non-climbable;
- (f) installing shielding material that is suitably durable in front of a latch on a gate;
- (g) removing or shielding footholes or other climbable objects that affect the barriers for the pool;
- (h) trimming or removing trees, branches or vegetation on or adjoining the barriers for the pool.

5 Work for barriers for particular regulated pools

- (1) The following work is prescribed in relation to a regulated pool if the matters in subsection (2) are satisfied –
- (a) constructing a fence that forms the whole or part of a barrier for the regulated pool;
 - (b) repairing, replacing or adjusting an existing fence that forms the whole or part of a barrier for the regulated pool.

- (2) For subsection (1), the matters are –

- (a) the regulated pool –
 - I. is situated on regulated land on which a class 1a building is, or is to be, constructed; and
 - II. is not a shared pool; and
- (b) either of the following applies –
 - I. the fence is no higher than two metres above its natural ground surface; or
 - II. if the fence is situated on an existing retaining wall, on part of an existing class 1a or class 10 building or on another existing structure—the fence is no higher than two metres above the wall, building or structure and no part of the fence that is higher than 2m above its natural ground surface is within 1.5 metres of a boundary; and

Note – See Queensland Development Code, MP 1.1, MP 1.2 and MP 1.3 for siting requirements for buildings and structures.

- (c) either –
 - I. the work is carried out during the reinspection period stated in a Form 26 given for the regulated pool; or
 - II. the regulated pool is a specified pool in relation to which no Form 26 has been given and, before the work commences, the owner of the regulated pool has arranged for an inspection of the pool by a pool safety inspector on a day that is not more than three months after the day the owner arranged the inspection.

Note –

The owner of a regulated pool must ensure the pool is inspected in the way required under section 16DA.