



Building newsflash number 473

Building Act 1975 amendments—pool fencing and residential care buildings

Purpose

To advise proposed amendments to the *Building Act 1975* in the Local Government Electoral Bill 2011 were introduced into the Legislative Assembly on 16 June 2011.

Background

Swimming pools

Queensland's swimming pool safety laws require pool owners to comply with safety requirements for swimming pools. It is common practice for pool fences to incorporate dividing fences as part of their enclosure.

If passed in its current form, the Neighbourhood Disputes Resolution Bill 2011 (NDRB) will replace the *Dividing Fences Act 1956* and regulate the laws governing most of Queensland's dividing fences. With the risks associated with inadequate pool fencing, an alternative to the model in the NDRB is needed to cater for pool barriers serving as dividing fences. The proposed amendments aim at creating a suitable model for situations where pool owners use the dividing fence for pool safety compliance.

Residential care

Residential Care Buildings (RCBs) have been identified as posing a high risk to life in the event of a fire. Following the Childers Palace Backpackers fire in June 2000, the Queensland Government began a staged fire safety improvement program for high occupancy buildings, including budget accommodation buildings (BABs) and RCBs.

The BAB fire safety improvement project was successfully completed on 31 December 2006.

Since 1 June 2007, new RCBs have been required to comply with Mandatory Part (MP) 2.2 of the Queensland Development Code (QDC)—'Fire safety in residential care buildings'. MP 2.2 requires life safety sprinklers and building-wide smoke detection systems in all buildings constructed after 1 June 2007. The code also requires a minimum number of carers to be onsite at all times, to ensure residents can be effectively evacuated from smoke compartments.

However, there are still over 700 RCBs in Queensland that were built prior to 1 June 2007. The government is implementing the final stage of its fire safety improvement program for RCBs to improve fire safety in these buildings.

New provisions

Swimming pools

The amendments provide an effective regime for dealing with pool barriers on common boundaries. In certain circumstances, pool owners will be empowered to construct or alter a pool fence, without first obtaining the agreement of their neighbour.

Consistent with the principles of the NDRB, a pool owner will always be required to notify an adjoining owner before commencing building work on a dividing fence. This provides the opportunity for the adjoining owner to liaise with the pool owner about the construction of the pool fence. In all cases, the pool owner will be responsible for the construction costs needed to comply with the pool safety standard.

The Bill has a broad application and accommodates situations such as both neighbours having pools, the use of a dividing fence as an enclosure for regulated dogs and the need, in some cases, to gain access to a neighbour's property to construct a pool barrier on a common boundary.

Residential care

The fire safety reforms of this Bill adopt a new part of the QDC, mandating minimum fire safety requirements for residential care buildings (RCBs) constructed prior to 1 June 2007. These requirements complete the government's fire safety improvement program for RCBs, as they capture those buildings not covered by MP 2.2 (which applies to all RCBs constructed after 1 June 2007).

MP 2.3 of the QDC – 'Fire safety in residential care buildings (pre 1 June 2007)' has been published and is now available on the department's [website](#).

Owners/operators will need to have their building assessed against MP 2.3 within six months of the commencement of this legislation, which is likely to be on 1 September 2011. The upgrades outlined in this assessment will need to be implemented within either three years from commencement for high risk buildings or five years from commencement for medium and low risk buildings.

Contact for further information

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