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# Swimming Pools

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Version 1.1

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at its meeting on  
Tuesday 13 November 2007  
Minute No: O290 and 179

Division:	Planning & Regulations
<del>Section</del> Section:	Building & <u>Environmental</u> Health
File Reference:	
Historical Reference:	1.0 Adopted 15/12/2004

## Swimming Pools

### Fencing

#### Code for the Fencing of Existing Swimming Pools - The Swimming Pools Act 1992

##### Objective

To provide information to the Owners of all Swimming ~~Pools, that~~Pools that were constructed **prior to 1 August 1990**, of the ~~new~~ laws pertaining to the restriction of access to existing swimming pools required under the provisions of the Swimming Pools Act 1992.

**Please Note:** - the Code for the installation of **new** pools will apply if:

(a) in relation to an outdoor swimming pool, if the child resistant barrier by which access to the pool is restricted is substantially altered or rebuilt, and

(b) in relation to an indoor swimming pool, if the premises in which the swimming pool is situated are substantially altered or rebuilt in a way that affects the means of access to the swimming pool.

#### Code For The Fencing Of Existing Swimming Pools - The Swimming Pools Act 1992

### Swimming Pool - Definition Under the Swimming Pools Act

"Swimming Pool":- means an excavation, structure or vessel:

- a) that is capable of being filled with water to a depth of 300 millimetres or more; and
- b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or of some other human aquatic activity,

and includes a spa pool, tub or the like, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

## Application Of Act

The Act applies to existing swimming pools situated in or on any premises on which a residential building, movable dwelling, hotel or motel is located.

## Notification Of Council

It is a requirement of the Act that the Council be notified of all swimming pools existing, and proposed to be built in its area.

## Requirements

The following are sections quoted from the Act that you will need to be familiar with:

### Outdoor Swimming Pools For Dwelling Houses Etc.

The owner of any premises in or on which an existing outdoor swimming pool is situated must ensure that access to the swimming pool is restricted at all times as follows:-

- (a) From any neighbouring place (whether public or private) which adjoins the premises concerned by a child resistant barrier complying with the provisions of Australian Standard AS 1926-1986;

AND

- (b) From any residential building situated on the premises concerned by restricted access conforming with the following "child-safe" requirements, as prescribed by ~~regulation-5\_6~~ of the Swimming Pools Act Regulations which is quoted as follows:-

#### "Part 6.

1. *For the purpose of sections 8 (2), 9 (2) and 10 (2) of the Act, the prescribed standards in accordance with which access to a swimming pool from a residential building is to be restricted are as provided by this clause.*
2. *In relation to each doorway giving access to the swimming pool;*
  - (a) *the door (or, if there is a security door in addition to another door, either of those doors) must be a child-safe door and must be kept child-safe by means of a lock, latch, bolt, chain or other child-resistant device located at least 1.5 metres above finished floor level; and*
  - (b) *there must not, on the door or on the door frame, be any footholds wider than 10 millimetres between the release mechanism of the door and any point 100 millimetres above finished floor level.*
3. *A lock, latch, bolt, chain or other child-resistant device located less than 1.5 metres above finished floor level is taken not to be a foothold for the purposes of subclause (2) (b).*

4. *In relation to each window giving access to the swimming pool;*
  - (a) *the bottom of the lowest opening panel of the window must (when measured in the closed position) be at least 1.2 metres above finished floor level; and*
  - (b) *there must not be any footholds wider than 10 millimetres between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of that panel.*
5. *Subclause (4) does not apply to a child-safe window or to a window that is totally enclosed by a child-safe grille or by a fixed child-safe flyscreen."*

"Child-safe" means:-

- (a) in the case of a door, being of substantial construction and (when the door is locked, latched, bolted, chained or otherwise secured) having no opening below 1.5 metres above finished floor level (either in the door or between the door and the doorway) through which it is possible to pass a standard test bar; and
- (b) in the case of a window, being of substantial construction and being so fixed (by means of a keyed locking device or other child-resistant device) that it has no opening through which it is possible to pass a standard test bar; and
- (c) in the case of a wall, being of substantial construction, having vertical sides and having a height of at least 1.2 metres and (in the case of a wall which has above its top a gap of 105 millimetres or more) having no footholds wider than 10 millimetres within 1.1 metres of the top of the wall; and
- (d) in any other case, being of substantial construction and having no opening through which it is possible to pass a standard test bar.

"Standard test bar" means a round bar having a diameter of 105 millimetres, plus or minus 1 millimetre.

#### **Failure to Comply Maximum Penalty: 10 Penalty Units**

**Note; 1 Penalty Unit = \$110.00**

#### **Requirements For Restricting Access From Movable Dwellings, Hotels, Motels**

The owner of the premises on which a swimming pool is situated must ensure that the swimming pool is surrounded at all times by a child-resistant barrier:

- (a) that separates the swimming pool from any movable dwelling, hotel or motel situated on the premises and from any place (whether public or private) adjoining the premises; and
- (b) that is located immediately around the swimming pool; and

- (c) that contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool; and
- (d) that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

### **Failure to Comply Maximum: 10 Penalty Units**

### **Exemptions For Large Properties And Waterfront Properties**

There are further exemptions granted under Sections 9(2) and 10(2) of the Act for existing pools on properties:-

- (a) having an area of two hectares or more, or
- (b) having frontage to a large body of water (such as a permanently flowing creek, a river, a canal, a pond, a lake, a reservoir, an estuary, the sea or any other body of water whether natural or artificial).

The exemption permits the elimination of the child resistant barrier but provides for the means of access to the swimming pool from any residential building situated on premises to which the above applies to be restricted at all times in accordance with the above requirements numbered 1 to 5 inclusive and "child-safe" construction.

### **Use Of Boundary Fencing**

While boundary fencing is permitted, it is suggested that boundary fencing not be used as part of the fence surrounding the pool as the pool owner has no control over what may happen on the other side of that fence. Boundary fencing will not be permitted to be used if it falls short of the Australian Standard, apart from the requirement to provide a clear span of 1.2 metres to finished ground level within the outside quadrant referred to in that clause.

Where the boundary fence is used, the Swimming Pools Act makes provision regarding the apportionment of expenses for such fencing.

### **Indoor Swimming Pools:**

The owner of the any premises in or on which an existing indoor swimming pools is situated must ensure that the means of access to the swimming pool are restricted in accordance with the "child-safe" standards prescribed by the regulations which are basically the same as those restrictions outlined above for outdoor swimming pools, in part (b) 1 to 5 inclusive and "child-safe"

### **Requirement To Maintain Child Resistant Barrier In Good Repair**

There is a requirement for the occupier to maintain the barrier in existence and in good state of repair so long as the swimming pool exists.

This requirement is extended so as to require the occupier of any premises on which there is an already existing child resistant barrier, to retain and maintain such barrier, irrespective of whether such barrier is now required by the Act to be installed, in a

good state of repair as an effective and safe barrier so long as the swimming pool exists.

#### Maximum Penalty of 10 Penalty Points

##### **Requirement to Keep Gate Securely Closed**

There is a requirement for the occupier to keep the gate or other means of access to a swimming pool closed at all times when not actually being used for access or egress.

#### Maximum Penalty of 10 Penalty Units

##### **Exemption for Spa Pools**

A spa pool is not required to be surrounded by a child resistant barrier so long as access to the water in a spa pool is restricted. The pool must be covered or secured by a child-safe structure (such as a door, lid, grille or mesh) that is fastened to the spa pool by a child-resistant device.

##### **Exemptions**

Where it is impracticable, or unreasonable (BECAUSE OF THE PHYSICAL NATURE OF THE PREMISES OR THE DESIGN OR CONSTRUCTION OF THE SWIMMING POOL) and alternative provision no less effective than the requirements set out above exist for restricting access to the swimming pool, Council may grant full or conditional exemption from the requirements.

A request for exemption;

1. must be in writing
2. must be accompanied by the appropriate application fee (\$~~750~~.00)
3. will be determined by Council.

##### **Warning Notice**

Warning notices must be erected near swimming pools. The occupier of any premises in or on which a swimming pool is situated must ensure that there is at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected in accordance with the regulations and bearing the following notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the relevant provisions of the document entitled "Cardio Pulmonary Resuscitation" published by the Australian Resuscitation Council, ~~and as reprinted in 1989.~~

#### Maximum Penalty Of 1 Penalty Unit~~s~~

##### **Notices**

The Council can service notice giving directions to be complied with for the purposes of having a swimming pool installation or premises comply with the requirements.

Maximum Penalty For Non-compliance with Notice: 10 Penalty Units

**Certificates of Compliance**

Upon the payment of the requisite fee the Council can issue a Certificate of Compliance under the Swimming Pools Act (subject to the installation complying) for a certificate of compliance relating to the swimming pool fencing and gate installation.

Where Council refuses to issue a certificate the reasons for refusal will be stated.

**Appeals Against Decisions of Council**

A right of appeal to the Land & Environment Court exists and may be utilised by any person who is aggrieved by a decision of the Council pursuant to the Swimming Pools Act.

If intending to appeal an applicant must await the Council's determination of the application and lodge the appeal within 28 days of Council's decision. Council should be made aware of the intention to appeal. Work on the project should not proceed until the appeal has been heard.

An appeal may be made in respect of Council's decision regarding:-

- (a) refusal to grant an exemption
- (b) the imposition of a condition on an exemption
- (c) a direction
- (d) refusal to grant a certificate of compliance

**Penalty Notices**

There is provision under this Act for the issue of penalty infringement notices for certain offences (similar to on the spot fines). For example:-

Failure to ensure that the means of access to the pool are restricted at all times in accordance with the regulations.

Failure to comply with a notice directing specified measures in relation to the restricting of access to a swimming pool.

Each existing swimming pool will be affected differently by the new requirements. To get some idea how your installation will be affected the following points may help.

**Especially Note the Following Points:**

Council has required security measures designed to prevent accidental drowning of youngsters for some years now. As such, many swimming pools will already conform to the fencing standards set out in the new Act, provided that those measures have been properly maintained.

Some will certainly not comply and as such, attention is drawn to the following:

- Walls of buildings which do not permit access, from the house on the premises to the pool, will be permitted provided they are designed, constructed and maintained child-safe.
  - Windows from the house on the premises to the pool will be permitted in walls where any openings are designed, constructed and maintained child safe.
  - Previously approved arrangements incorporating self-closing and self-latching door systems leading from the house onto the pool area generally may be acceptable. These will be determined on their merits and will require scrutiny by Council's Building Surveyor in each case. Owners of such systems are encouraged to apply for a "Certificate of Compliance" under the Swimming Pools Act and arrange a suitable time for inspection by a Council Officer.
  - Decisions regarding specific installations will not be given over the telephone or at the Building Department counter. In most circumstances it will be necessary to arrange an appointment with your Building Surveyor to enable an inspection of the installation to be made and an appraisal to be given following the inspection.
- | Contact may be made by telephoning the Building [& Environmental Health Services](#) Unit on (02) 66 702 440 during office hours (8:00am to 4:30pm Monday to Friday)."



Part 1:-

Typical Examples of POOL FENCING for new pools not subject to any exemptions.

Diagram 1

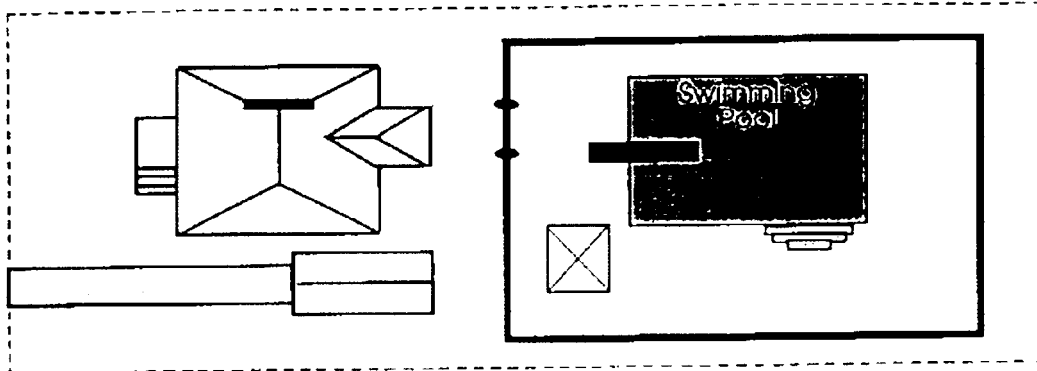


Diagram 2

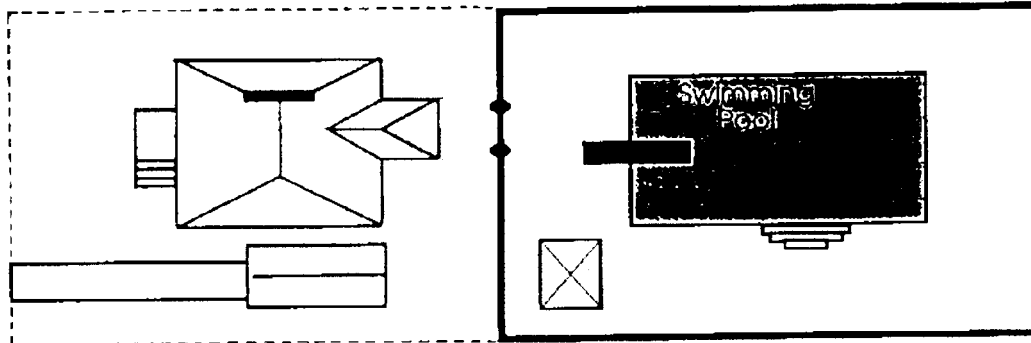
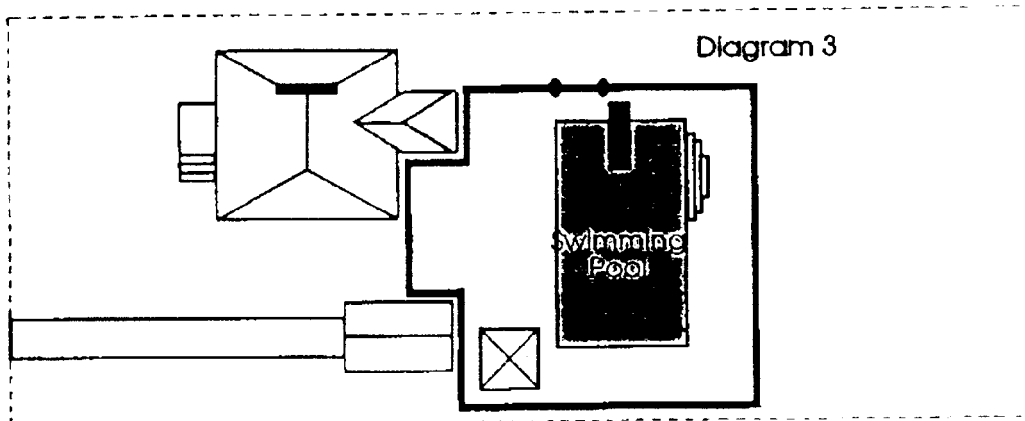


Diagram 3



Poolside Structure



Child-resistant barrier  
Boundary of premises

Note: A child resistant Barrier consists of fencing complying with Australian Standard AS 1926-1988

Part 2:-

Requirements for  
 a) Existing Swimming Pools  
 and/or b) New Swimming Pools on very small properties

Diagram 4

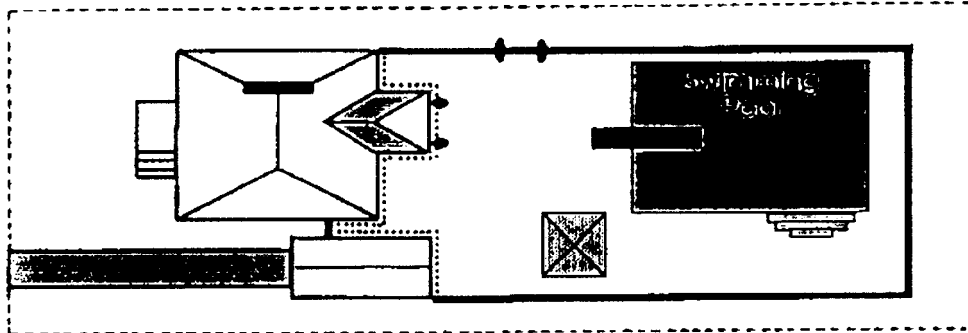
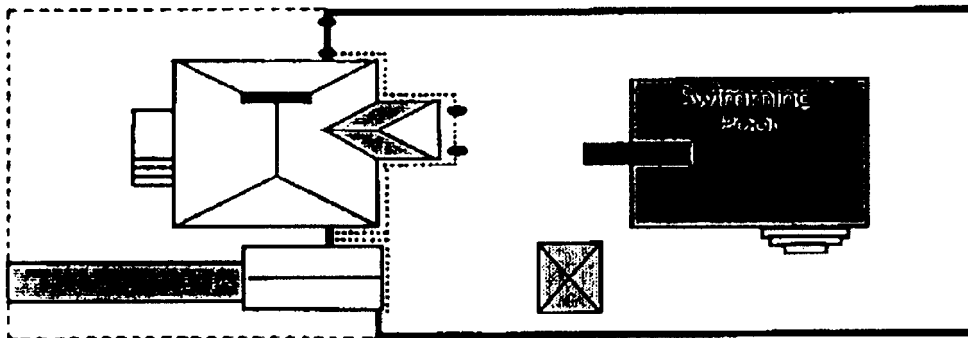


Diagram 5



- Poolside Structure
- Child-resistant barrier
- Boundary of premises
- Restricted access from building

Note ...A child resistant Barrier consists of fencing complying with Australian Standard AS 1926-1986

Part 3:-

Swimming pools on Large Properties.  
 Typical examples of exemptions permitted regarding separation of pool from dwelling on the premises.

Diagram 6



Part 4:-

Swimming Pools on Waterfront Properties.  
 Typical examples of exemptions permitted regarding restriction of access to pool from dwelling on the premises.

Diagram 7

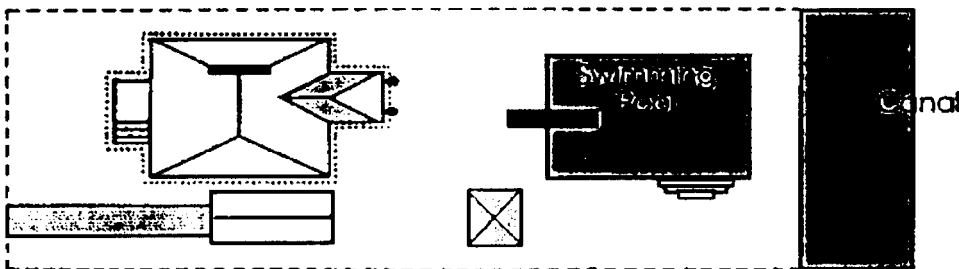
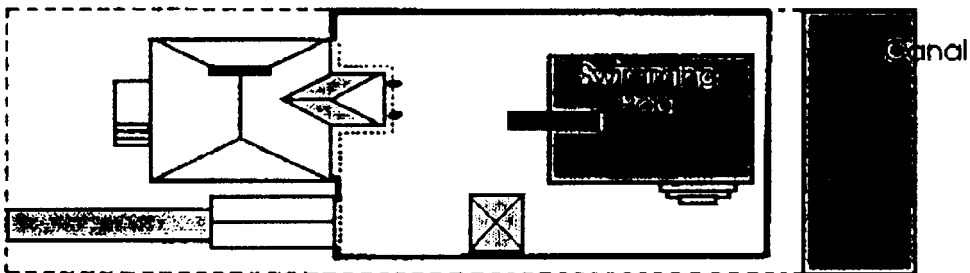


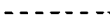



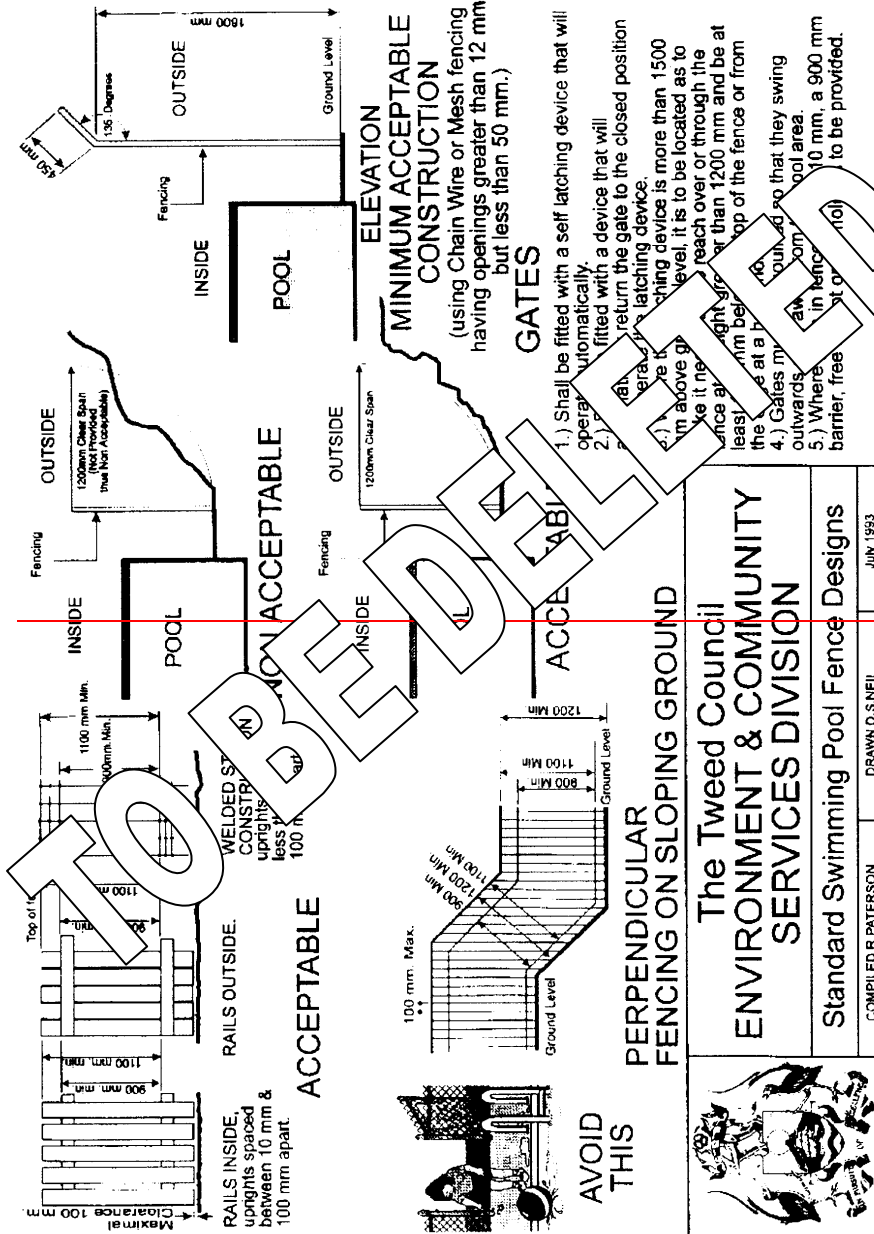
Diagram 8



Note 1...A child resistant Barrier consists of fencing complying with Australian Standard AS 1926-1986

Note2.. Restricted access from buildings requires that access to the swimming pool from any residential buildings situated on the premises is restricted at all times as previously described in the code utilising 'child safe' construction

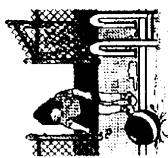
-  Poolside Structure
-  Child-resistant barrier
-  Boundary of premises
-  Restricted Access from Building



**ELEVATION MINIMUM ACCEPTABLE CONSTRUCTION**  
 (using Chain Wire or Mesh fencing having openings greater than 12 mm but less than 50 mm.)

**GATES**

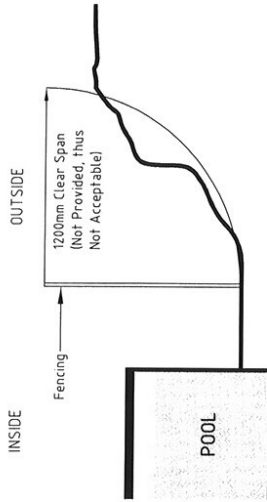
- 1.) Shall be fitted with a self latching device that will operate automatically.
- 2.) Shall be fitted with a device that will return the gate to the closed position after the latching device.
- 3.) Where the latching device is more than 1500 mm above ground level, it is to be located as to reach over or through the fence at a minimum of 1200 mm and be at least 100 mm below the top of the fence or from the top of the fence at a height of 100 mm.
- 4.) Gates must be designed so that they swing outwards from the pool area.
- 5.) Where the height of the fence is 900 mm or more, a 900 mm barrier, free of any protrusions, is to be provided.



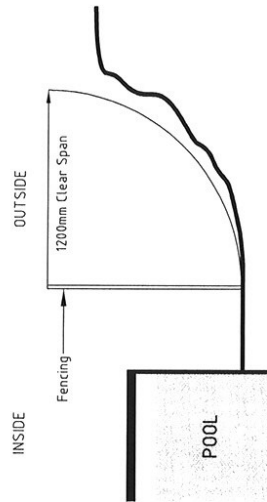
**AVOID THIS**

**PERPENDICULAR FENCING ON SLOPING GROUND**

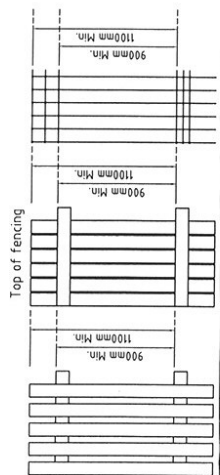
	<p>The Tweed Council  <b>ENVIRONMENT &amp; COMMUNITY SERVICES DIVISION</b></p>
	<p>Standard Swimming Pool Fence Designs</p>
	<p>COMPILED R. PATERSON      DRAWN D.S. NEIL      July 1993</p>



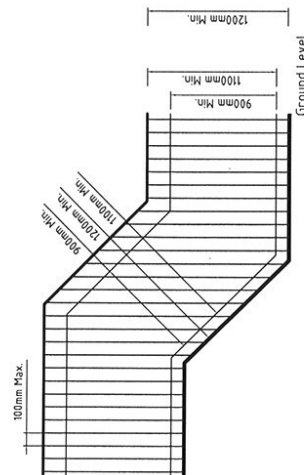
NOT ACCEPTABLE



ACCEPTABLE



ACCEPTABLE



PERPENDICULAR FENCING ON SLOPING GROUND

GATES

- 1.) Shall be fitted with a self latching device that will operate automatically.
- 2.) Shall be fitted with a device that will automatically return the gate to the closed position and operate the latching device.
- 3.) Where the latching device is less than 1500mm above ground level, it is to be located as to make it necessary to reach over or through the fence at a height greater than 1200mm and be at least 150mm below the top of the fence or from the edge at a hand hole.
- 4.) Grates must be mounted so that they swing outwards only, away from the pool area.
- 5.) Where gaps in the fence exceed 10mm, a 900mm barrier, free of foot or toe-holes is to be provided.
- 6.) Must not be propped in an open position.

	<p>The Tweed Shire Council BUILDING &amp; ENVIRONMENTAL HEALTH UNIT</p>	
	<p>Standard Swimming Pool Fence Designs</p>	
<p>COMPILED: R. Cameron</p>	<p>DRAWN: M. Cullen</p>	<p>DATE: September 2008</p>

## Code for the Installation of New Swimming Pools Incorporating the Provision of the Swimming Pools Act 1992

### Objective

To provide information to the Owners of all Swimming Pools, the construction of which was commenced after 1 August 1990, of the laws pertaining to the restriction of access to Swimming Pools under the provisions of the Swimming Pools Act 1990 and other requirements in relation to new swimming pools.

### **CODE FOR THE INSTALLATION OF NEW SWIMMING POOLS**

Requirements for New Swimming Pools including provisions of the Swimming Pools Act 1992

### **Swimming Pool - Definition under the Swimming Pools Act**

"Swimming Pool": means an excavation, structure or vessel:

- a) that is capable of being filled with water to a depth of 300 millimetres or more; and
- b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or of some other human aquatic activity,

and includes a spa pool, tub or the like, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations not to be a swimming pool for the purposes of this Act.

### **Definitions**

"Child-resistant doorset" means: - A doorset that comprises a door, door frame, self closing device and self latching device, and designed to provide an access by way from the building to the swimming pool.

"Fence Height" means: - The height perpendicular to the finished ground level at any point along the length of the fencing, measured on the outside of the fencing.

"Finished ground level" means: - A permanent stable surface.

"Non-climbable zone" means: - A zone consisting of a barrier as well as the associated space within 900mm of the barrier, intended to inhibit climbing of the barrier by children. This includes any point along the length of the barrier and its associated space.

"Pool area" means: - The area that surrounds the pool that is separated from the rest of the allotment by a safety barrier.

"Testing apparatus" means: - A cylindrical test object having a diameter of 105 millimetres, plus or minus 1 millimetre and having one solid flat faced end.

### Application Of Act

The Act applies to swimming pools situated in or on any premises on which a residential building, a movable dwelling, a hotel or a motel is located anywhere in the Shire.

### Notification Of Council

It is a requirement of the Act that the Council be notified of all swimming pools existing and proposed to be built in its area.

### Application Required

To this end an application is required for all new swimming pools falling within the definition above. This includes all above ground and prefabricated pools.

### Approval

#### The Application:

The application will comprise of either:-

1. For proposals which can comply with the provisions contained in Council's Part A1 (Exempt and Complying Development) of Councils Development Control Plan ~~No 40 Exempt and Complying Development~~, a Complying Development Certificate Application is to be submitted to Council or an Accredited Certifier for determination, or
2. For proposals which cannot comply with the provisions contained in Council's Part A1 of Councils Development Control Plan ~~No 40~~, a Development Application is to be submitted to Council for determination, and subsequently followed by a Construction Certificate Application to Council or an Accredited Certifier for determination.

The relevant application will comprise:-

- A completed application form and requisite fees.
- Two copies of a structural engineer's detail specific to the proposed site, including plan, section plan, skimmer box and hydrostatic valve detail.

For an above ground pool, it may, in place of an engineer's detail, suffice to submit the manufacturer's detail.

- Two-Three copies of a site plan which identifies north point, -- to show the position of the proposed pool in relation to the boundaries of the land (Note: the minimum side and rear boundary setback to the concourse or coping is one (1) metre, with the water line being a minimum of 1.5 metres from these boundaries), the dimensions of the pool, the location of any proposed pumps or filtration equipment, the road and any existing buildings on the site. The plan is

also to include the position of fencing (*existing and proposed*), gates and any other measures designed to restrict access to the swimming pool area.

- Details of the proposed method of drainage.  
~~– The location of the filter plant is to be shown.~~

- The requirements of the Department of Fair Trading relating to Home Owner warranty Insurance and/or Owner/Builder Permits ~~– are satisfied.~~

It is recommended that where adjoining owners are affected and particularly where boundary fencing is included as part of the required safety fencing that the proposal be made known to, and discussed with, the adjoining owner before the application comes to Council.

### Warning

***Proceeding with the construction of a swimming pool prior to formal approval being obtained will render the owner or builder or both liable to legal proceedings being instituted. It is important to allow sufficient time to allow the certifying authority to deal with the application as it is required by law to do.***

### **Requirements for Restricting Access - Dwelling Houses, Etc.**

The following are sections quoted from the Swimming Pools Act that you will need to be familiar with.

### **Outdoor Swimming Pools**

The owner of any premises in or on which a new outdoor swimming pool is situated must ensure that the swimming pool is surrounded by a child resistant barrier:-

- i. that separates the swimming pool from:-
  - (1) the remainder of the premises; and
  - (2) any place (whether public or private) adjoining the premises; and
- ii. that is designed, constructed and installed in accordance with the standards prescribed by the regulations.

Failure to comply - maximum penalty: 10 penalty units.

The regulation requires that fencing and gates be installed in accordance with Australian Standard 1926-~~1986~~2007.

The attached sheet indicates some design standards for fencing as required by the Australian Standard 1926-~~1986~~2007.

AS 1926-~~42007~~986 sets out the specification of the fencing and gate system. Except where boundary fencing is utilised, ~~T~~the minimum acceptable fence height is 1.2 metres constructed so as to have no cross members, braces or footholds in the centre section. Diagrams attached illustrate the required clearances. Gates are to



be hung so they swing outwards i.e. away from the pool area, are to be of the self-closing, self-latching type with the latch set at 1.5 metres above the ground or 150 millimetres down the back of the gate with guards fitted. The gate is to be to meet the same standard as the fence ~~and must open outwards only away from the pool when in the closed position.~~

### Aboveground Pools

- (a) Where the pool side is less than 1.2 metres high the full fencing provisions apply.
- (b) Where the side is higher or equal to 1.2 metres the pool side wall may form the 1.2 metre barrier provided it cannot be climbed.

**NOTE** No object including filter units or the like may be placed within ~~4.2 metres~~900mm of the side wall unless enclosed by a vertical wall 1.2 metres in height or a barrier is constructed out above the filter in such a way that climbing of the filter or pipework is not possible.

The stair or ladder area must be surrounded by fencing and a gate which is installed to the requirements of Australian Standard 1926-~~2007~~1986. The fence should abut the pool wall at right angles. If a right angle cannot be achieved the obtuse angle is to be outside of the enclosed area.

### Use of Boundary Fencing

While boundary fencing is permitted, it is suggested that boundary fencing not be used as part of the fence surrounding the pool as the pool owner has no control over what may happen on the other side of that fence. However if boundary fencing is to be utilised it must be not less than 1.8 metres in height and comply with the non-climbable zone (NCZ) outlined in the Australian Standards.~~Boundary fencing will not be permitted to be used if it falls short of the Australian Standard, apart from the requirement to provide a clear span of 1.2 metres to finished ground level within the outside quadrant referred to in that clause.~~

Where the boundary fence is used, the Swimming Pools Act makes provision regarding the apportionment of expenses for such fencing.

### Particular Points to Note Regarding Fence and Enclosed Area

- Walls of buildings may be used to form part of the security fencing subject to inspection and approval by the building surveyor.
- Windows: Where the height of a window sill of the lowest opening panel of a window to the finished ground below and adjacent to the pool area is less than 1.8 metres or where the height from a window sill of the lowest opening panel of a window to the floor of the building is less than 1.2 metres, then the openable portion of the window shall be provided with a security grille securely fixed such that tools are required for removal or alternatively the openable portion of the window shall be fixed with fasteners, that can only be removed by the use of a tool i.e. screwdriver or spanner, and will restrict the opening to a maximum of 100mm~~Openings in walls such as windows will not be permitted except where the opening section is covered by an approved security grille securely fixed~~

~~such that tools are required for its removal.~~ All subject openings will come under close scrutiny by the Building Surveyor and will be rejected if not of an adequate standard.

- Fences and gates are to be in position prior to the filling of the pool with water. In some circumstances temporary measures may be considered by the Building Surveyors if filling is required immediately, due to technical reasons.

### Exemptions for Small Properties, Large Properties and Waterfront Properties

There are exemptions granted under the Act under Sections 8(2), 9(2) and 10(2) for properties:-

- (a) having an area less than 230 square metres, or
- (b) having an area of two hectares or more, or
- (c) having frontage to a large body of water (such as a permanently flowing creek, a river, a canal, a pond, a lake, a reservoir, an estuary, the sea or any other body of water whether natural or artificial).

The exemption provides for the means of access to the swimming pool from any residential building situated on premises to which the above applies to be restricted at all times in accordance with Part 6 & 7 of the Swimming Pools Act ~~Regulation 5 of the Swimming Pool Act~~ which is quoted as follows:-

#### "Part 6.

- (1) *For the purpose of sections ~~8-(2), 9(2) and 10(2)~~ (which relates to child-resistant barriers on small allotments) of the Act, the prescribed standards in accordance with which the means of access to a swimming pool from a residential building is to be restricted are ~~as provided by this clause~~ that:*
  - (a) each doorway, and each opening portion of a window, that gives access to a swimming pool is to be designed, constructed, installed and maintained in accordance with the standard set out in AS 1926-2007, and*
  - (b) in relation to each opening portion of a window giving access to the swimming pool - there must not be any footholds wider than 10mm between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of the panel.*
- (2) *Subclause (1) (b) does not apply to a window that is:*
  - (a) of substantial construction and is so fixed (by means of a keyed locking device or other child-resistant device) that it has no opening through which it is possible to pass a testing apparatus, or*
  - (b) totally enclosed by a grille (including a fixed grille) that is of substantial construction and is so fixed (by means of a keyed locking device or other child-resistant device) that it has no opening through which it is possible to pass a testing apparatus."*

"Part 7.

For the purposes of sections 9(2) (which relates to child-resistant barriers on large allotments) and 10(2) (which relates to child resistant barriers on waterfront properties) of the Act, the prescribed standards in accordance with which the means of access to a swimming pool from a residential building are to be restricted are the standards set out in AS 1926-2007."

The standards set out in AS1926-2007 for child-resistant doorsets and windows are as follows:-

In relation to each doorway giving access to a swimming pool:

~~2. In relation to each doorway giving access to the swimming pool;~~

(a) ~~the door (or, if there is a security door in addition to another door, either of those doors) must be fitted with a self latching device that will automatically operate on the closing of the door and will prevent the door from being re-opened with out manually releasing the device a child-safe door and must be kept child-safe by means of a lock, latch, bolt, chain or other child-resistant device located at least 1.5 metres above finished floor level; and~~

(b) ~~the door shall be fitted with a self closing device that will activate immediately after use and will return the door to the closed position and will operate the latching device from any position with a stationary start without the application of manual force. there must not, on the door or on the door frame, be any footholds wider than 10 millimetres between the release mechanism of the door and any point 100 millimetres above finished floor leve\_~~

The self closing device shall be capable of complying with these requirements with the door at any position from resting on the latching mechanism to fully closed.

(c) ~~The release for the latching device on the internal (building) side of the door shall be located not less than 1.5 metres above the floor.~~

(d) There shall be no footholds wider than 10mm on the door or its frame between the floor and one (1) metre above the floor.

(e) Any horizontal members, vertical members, perforated materials or mesh and finish shall comply with Australian Standard AS1926-2007.

(f) The doorset shall comply with the performance requirements for of the standard.

(g) Pet doors shall not be placed in child-resistant doors.

~~3. A lock, latch, bolt, chain or other child-resistant device located less than 1.5 metres above finished floor level is taken not to be a foothold for the purposes of subclause (2) (b).~~

4. In relation to each window giving access to the swimming pool:

~~Where the height of a window sill of the lowest opening panel of a window to the finished ground below and adjacent to the pool area is less than 1.8 metres or where the height from a window sill of the lowest opening panel of a window to the floor of the building is less than 1.2 metres, then the openable portion of the window shall be provided with a security grille securely fixed such that tools are required for removal or alternatively the openable portion of the window shall be fixed with fasteners, that can only be removed by the use of a tool i.e. screwdriver or spanner, and will restrict the opening to a maximum of 100mm.~~(a) ~~the bottom of the lowest opening panel of the window must (when measured in the closed position) be at least 1.2 metres above finished floor level; and~~

~~(b) there must not be any footholds wider than 10 millimetres between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of that panel.~~

5. ~~Subclause (4) does not apply to a child-safe window or to a window that is totally enclosed by a child-safe grille or by a fixed child-safe flyscreen.~~

~~"Childdsafe" means:-~~

~~(a) in the case of a door, being of substantial construction and (when the door is locked, latched, bolted, chained or otherwise secured) having no opening below 1.5 metres above finished floor level (either in the door or between the door and the doorway) through which it is possible to pass a standard test bar; and~~

~~(b) in the case of a window, being of substantial construction and being so fixed (by means of a keyed locking device or other child-resistant device) that it has no opening through which it is possible to pass a standard test bar; and~~

~~(c) in the case of a wall, being of substantial construction, having vertical sides and having a height of at least 1.2 metres and (in the case of a wall which has above its top a gap of 105 millimetres within 1.1 metres of the top of the wall; and~~

~~(d) in any other case, being of substantial construction and having no opening through which it is possible to pass a standard test bar.~~

~~"Standard test bar" means a round bar having a diameter of 105 millimetres, plus or minus 1 millimetre.~~

In relation to new pools on small sites of less than 230 square metres it must be noted that it is still necessary to separate the pool from all other premises (both public and private) on adjoining lands by a child resistant barrier conforming with the Australian Standard AS 1926-~~12007~~.986.

### **Request for Exemptions**

The Council may grant exemptions as outlined above on submission of a written application by the owner of the subject property stating the reasons for the exemption.

### **Requirements For Restricting Access From Movable Dwellings, Hotels, Motels**

The owner of the premises on which a swimming pool is situated must ensure that the swimming pool is surrounded at all times by a child-resistant barrier:

- (a) that separates the swimming pool from any movable dwelling, hotel or motel situated on the premises and from any place (whether public or private) adjoining the premises; and
- (b) that is located immediately around the swimming pool; and
- (c) that contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool; and
- (d) that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Maximum Penalty of 10 Penalty Points

### **Indoor Swimming Pools:**

The owner of any premises in or on which a new indoor swimming pools is situated must ensure that the means of access to the swimming pool are restricted in accordance with the "child-safe" standards prescribed by the regulations which are basically the same as those exemptions outlined previously relating to small properties, large properties and water front properties.

Maximum Penalty of 10 Penalty Points

### **Requirement To Maintain Child Resistant Barrier In Good Repair**

There is a requirement for the occupier to maintain the barrier in existence and in a good state of repair as long as the swimming pool exists.

Maximum Penalty of 10 Penalty Points

### **Requirement to Keep Gate Securely Closed**

There is a requirement for the occupier to keep the gate or other means of access to a swimming pool closed at all times when not being used for access or egress.

Maximum Penalty of 10 Penalty Units

### **Exemption for Spa Pools**

A spa pool is not required to be surrounded by a child resistant barrier so long as access to the water in a spa pool is restricted. The pool must be covered or secured

by a child-safe structure (such as a door, lid, grille or mesh) that is fastened to the spa pool by a child-resistant device.

### Exemptions

Where it is impracticable or unreasonable (BECAUSE OF THE PHYSICAL NATURE OF THE PREMISES OR THE DESIGN OR CONSTRUCTION OF THE SWIMMING POOL) and alternative provision no less effective than the requirements set out above exist for restricting access to the swimming pool, Council may grant full or conditional exemption from the requirements.

A request for exemption;

1. must be in writing
2. be accompanied by the appropriate application fee (\$~~750.00~~ ~~in 1992~~)
3. will be determined by Council.

### Warning Notices

Warning notices must be erected near swimming pools, be legible from a distance of at least 3 metres and must be maintained in a clearly legible position. The occupier of any premises in or on which a swimming pool is situated must ensure that there is at all times maintained, in a prominent position in the immediate vicinity of the swimming pool.

~~a sign~~ Signs must be erected in accordance with the regulations and bearing ~~the following a~~ notice that contains all of the following:

(a) the words

(i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", and

(ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and

(i) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES".

~~together with~~

(b) details a flow sequence of resuscitation techniques (for adults, children and infants) set out in accordance with the relevant provisions of the document entitled "Cardio Pulmonary Resuscitation" published by the Australian Resuscitation Council, ~~and as reprinted in 1989.~~

Maximum Penalty of 1 Penalty Units

### Notices

The Council can service notice giving directions to be complied with for the purposes of having a swimming pool installation or premises comply with the new requirements.

## Maximum Penalty for non compliance with Notice 10 Penalty Units

### Certificates of Compliance

Upon the payment of the requisite fee the Council can issue a Certificate of Compliance under the Swimming Pools Act (subject to the installation complying) for a swimming pool fencing and gate installation.

Where Council refuses to issue a certificate reasons for refusal will be stated.

### **Appeals Against Decisions of Council**

A right of appeal to the Land & Environment Court exists and may be utilised by any person who is aggrieved by a decision of the Council pursuant to the Swimming Pools Act.

If intending to appeal, an Applicant must await the Council's determination of the application and lodge the appeal within 28 days of Council's decision. Council should be made aware of the intention to appeal. Work on the project should not proceed until the appeal has been heard.

An appeal may be made in respect of Council's decision regarding:-

- (a) refusal to grant an exemption;
- (b) the imposition of a condition on an exemption;
- (c) a direction;
- (d) refusal to grant a certificate of compliance;

### **Penalty Notices**

There is provision under this Act for the issue of penalty infringement notices for certain offences (similar to on the spot fines). For example:-

- Failure to keep access gates or similar securely closed except when being used to gain access or egress.
- Failure to surround swimming pool by a child resistant barrier.
- Failure to provide or maintain warning notices.

### **Prevention of Nuisance**

1. Disposal of Excess Water: Excess water discharged from swimming pools during periods of heavy rainfall may cause surcharges in Council's sewerage system.

The connection of overflow drains lines to Council's sewerage system is prohibited. This water may be disposed of through the stormwater system if available otherwise in such manner as not to cause damage to structures or nuisance to adjoining land holders.



1a. Disposal of backwash water in sewerred areas.

The backwash discharge pipe should be connected to Council's sewerage system. This connection must be carried out by a licensed plumber and the work inspected by Council.

1b. Disposal of backwash water in unsewered areas.

The backwash discharge should be discharged through the stormwater system if available, otherwise in such a manner as not to cause damage to structures or nuisance to adjoining land holders.

2. Noise from Filter Plant: Complaint is likely to be raised by neighbours if by reason of poor siting or neglected maintenance of the pool pumping and filtration plant, the unit becomes noisy.

The pool filtration plant motors and pumps are to be housed in a suitable structure designed to minimise noise from the plant. Plant should be located as far as possible from adjoining boundaries and in particular bedrooms of neighbouring homes. The position of the motors and pumps is to be shown on plan.

**Powers under Noise Control Act:** Council reserves the right to require noise attenuation work to the equipment should investigation of a complaint prove noise levels at the boundary to be excessive. A general requirement of the Noise Control Act permits the hours of operation of swimming pool pumps from 7:00am to 8:00pm Mondays to Fridays and 8:00am to 8:00pm Saturdays, Sundays and public holidays.

### **Use of Street Hydrants for Filling Pools**

- | The filling of swimming pools by means of street hydrants may not be desirable if, due to mains repair or other reason, reservoir capacity is diminished.
- | Should it be proposed to fill the pool by means of a street hydrant it will be necessary to contact Council's Water Unit to discuss the matter.

### **Resuscitation Instruction**

- | Council considers that resuscitation education may contribute to the saving of a life (adult or child) should a person get into difficulty in the pool.
- | Resuscitation instructions must be displayed near the pool. Posters may be purchased from Council's offices and the prescribed fee is to be paid for the poster at the time of application.

### **Water Treatment**



All swimming pool water must be treated and disinfected by an approved means and be adequately filtered.

Advice should be sought from a supplier conversant with pool water quality standards before adding chemical treatments. The owner should acquire a quality test kit and use it regularly to ensure optimum conditions for healthy pleasant swimming.

Water delivered from Council's mains although treated is likely to be on the alkaline side of the ph scale. Before attempting to balance the pool the total alkalinity should be established and corrected if necessary then accurate ph readings be obtained to enable adjustment to the pool manufacturers/builders recommendation.

Part 1:-

Typical Examples of POOL FENCING for new pools not subject to any exemptions.

Diagram 1

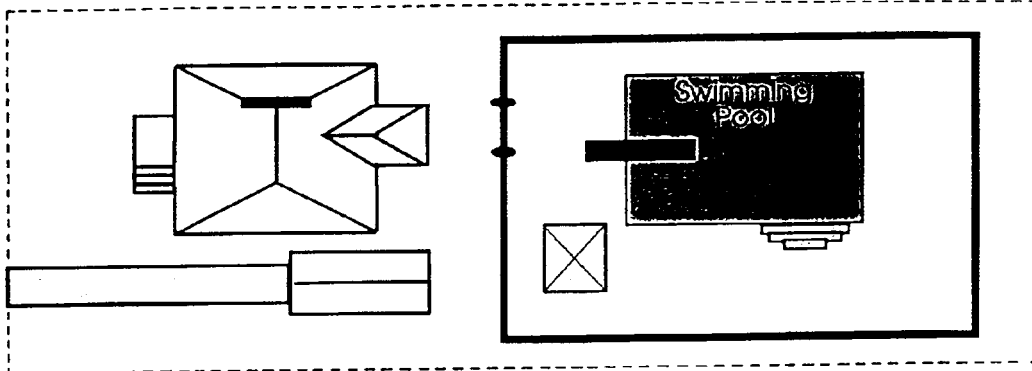


Diagram 2

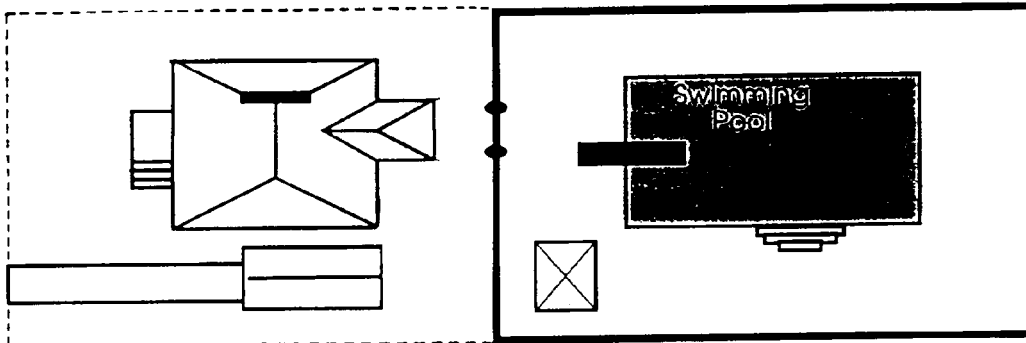
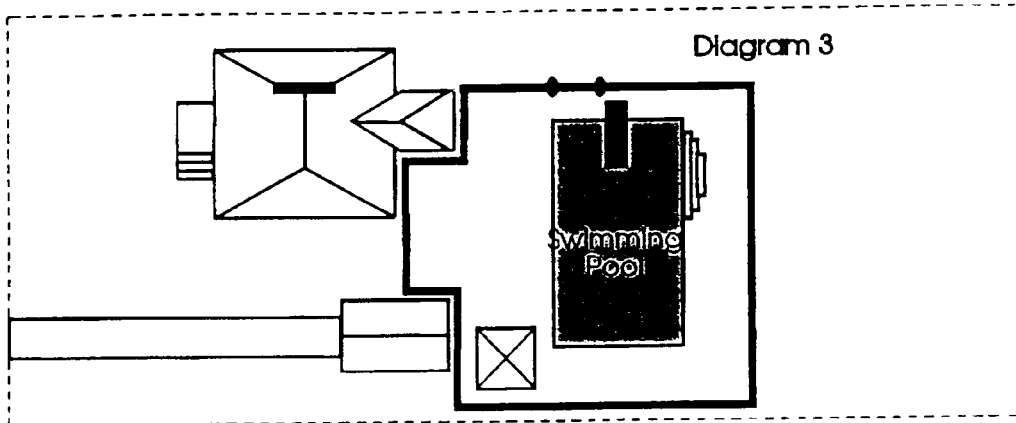


Diagram 3



Poolside Structure



Child-resistant barrier  
Boundary of premises

Note ...A child resistant Barrier consists of fencing complying with Australian Standard AS 1926-1985

Part 2:-

- Requirements for  
 a) Existing Swimming Pools  
 and/or b) New Swimming Pools on very small properties

Diagram 4

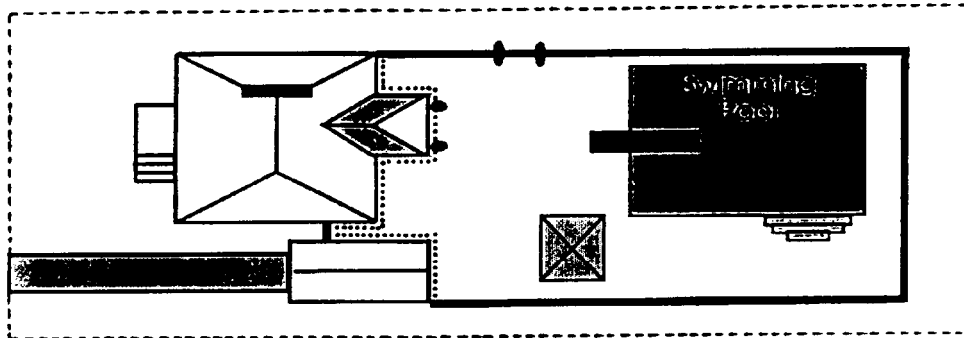
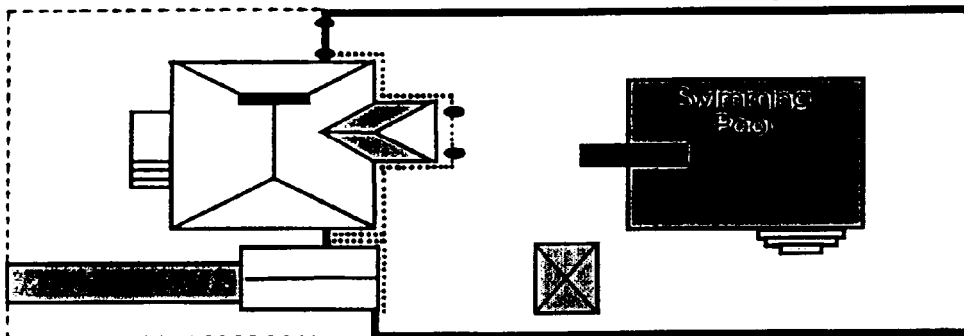


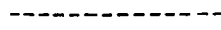
Diagram 5



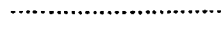
Poolside Structure



Child-resistant barrier



Boundary of premises



Restricted access from building

Note ...A child resistant Barrier consists of fencing complying with Australian Standard AS 1926-1986

Part 3:-

Swimming pools on Large Properties.  
 Typical examples of exemptions permitted regarding separation of pool from dwelling on the premises.

Diagram 6



Part 4:-

Swimming Pools on Waterfront Properties.  
 Typical examples of exemptions permitted regarding restriction of access to pool from dwelling on the premises.

Diagram 7

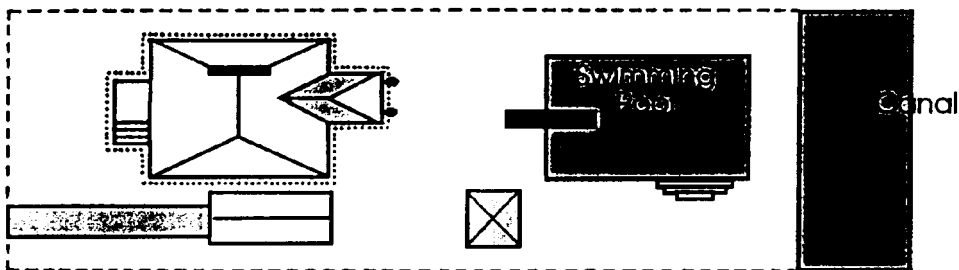
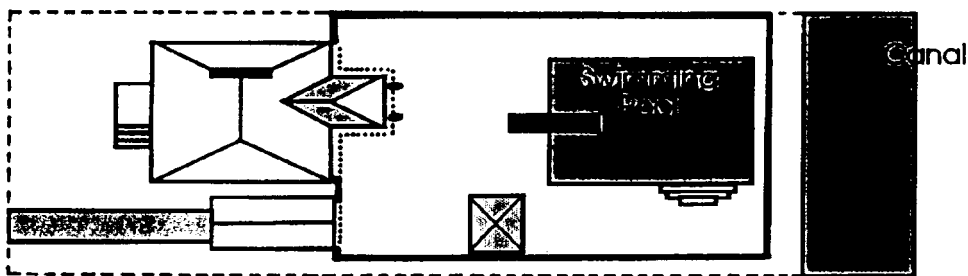


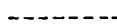



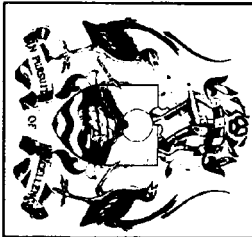
Diagram 8



Note 1...A child resistant Barrier consists of fencing complying with Australian Standard AS 1926-1986

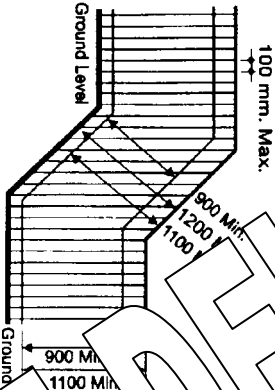
Note 2.. Restricted access from buildings requires that access to the swimming pool from any residential buildings situated on the premises is restricted at all times as previously described in the code utilising "child safe construction"

-  Poolside Structure
-  Child-resistant barrier
-  Boundary of premises
-  Restricted Access from Building

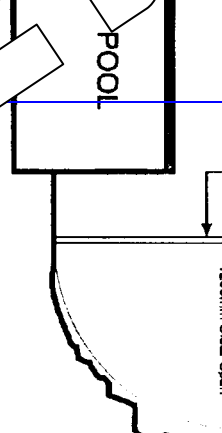


**AVOID THIS**

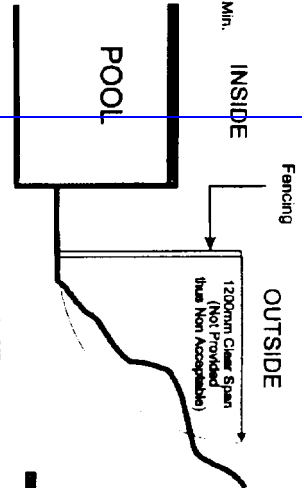
**PERPENDICULAR FENCING ON SLOPING GROUND**



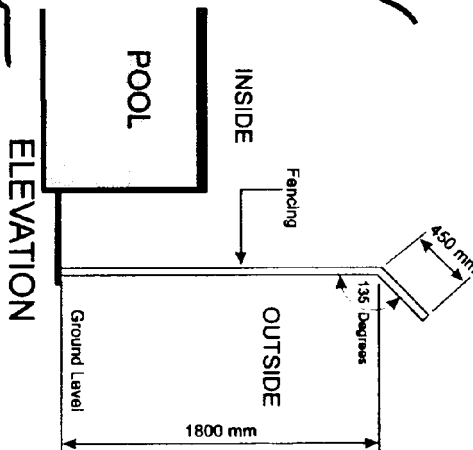
**ACCEPTABLE**



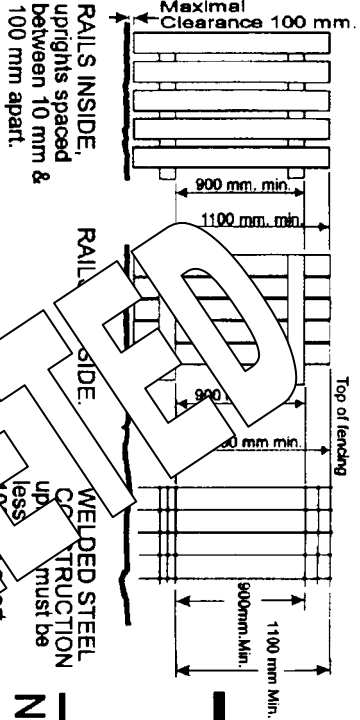
**NON ACCEPTABLE**



**ELEVATION MINIMUM ACCEPTABLE CONSTRUCTION**  
(using Chain Wire or Mesh fencing having openings greater than 12 mm but less than 50 mm.)  
**GATES**



**ACCEPTABLE**



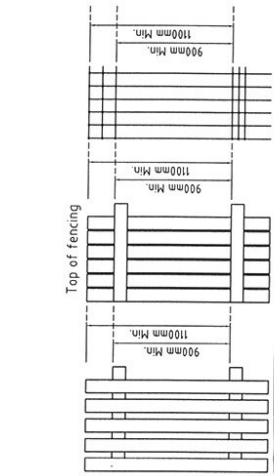
**The Tweed Council ENVIRONMENT & COMMUNITY SERVICES DIVISION**  
**Standard Swimming Pool Fence Signs**

COMPILED R.PATERSON

DRAWN D.S.NEIL

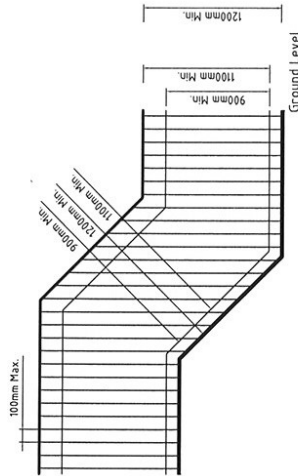
July 1993

- 1.) Shall be fitted with a self latching device that will operate automatically.
- 2.) Shall be fitted with a device that will automatically return the gate to the closed position and operate the latching device.
- 3.) Where the latching device is more than 1500 mm above ground level, it is to be located as to make it necessary to reach over or through the fence at a height greater than 1200 mm and be at least 150 mm below the top of the fence or from the edge at a hand hole.
- 4.) Gates must be mounted so that they swing outwards only, away from the pool area.
- 5.) Where gaps in fence exceed 10 mm, a 900 mm barrier, free of foot or toe-holes is to be provided.

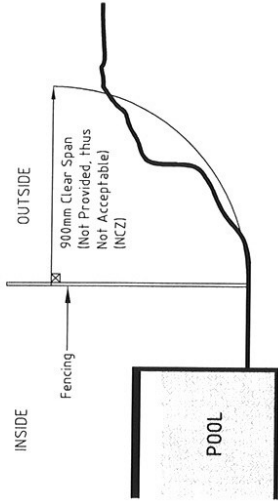


WELDED STEEL CONSTRUCTION uprights must be less than 100mm apart.

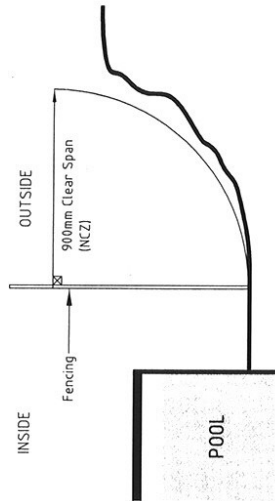
ACCEPTABLE



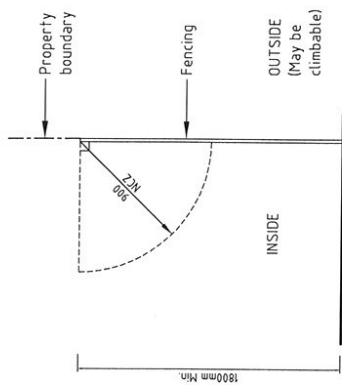
PERPENDICULAR FENCING ON SLOPING GROUND



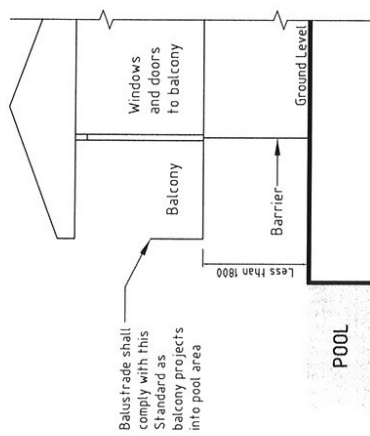
NOT ACCEPTABLE



ACCEPTABLE



BOUNDARY FENCE CLIMBABLE ON THE OUTSIDE



BALCONY PROJECTING INTO POOL AREA

GATES

- 1.) Shall be fitted with a self latching device that will operate automatically.
- 2.) Shall be fitted with a device that will automatically return the gate to the closed position and operate the latching device.
- 3.) Where the latching device is less than 1500mm above ground level, it is to be located as to make it necessary to reach over or through the fence at a height greater than 1200mm and be at least 150mm below the top of the fence or from the edge at a hand hole.
- 4.) Grates must be mounted so that they swing outwards only, away from the pool area.
- 5.) Where gaps in the fence exceed 10mm, a 900mm barrier, free of foot or toe-holes is to be provided.
- 6.) Must not be propped in an open position.

	<p>The Tweed Shire Council BUILDING &amp; ENVIRONMENTAL HEALTH UNIT</p>	
	<p>Standard Swimming Pool Fence Designs</p>	
COMPILED: R Cameron	DRAWN: M Cullen	DATE: September 2008