

## Fencing swimming pools or spas

This updates the previous *Practice Note 2005-05* issued June 2005.

### 1. Summary

All swimming pools and spas associated with a Class 1, 2, 3 or Class 4 part of a building or a children's service must be provided with safety barriers to restrict access of young children to the pool or spa area.

A swimming pool or spa is any excavation or structure containing water deeper than 300mm and used principally for swimming, wading or paddling. Safety barriers are required for:

- ▶ In-ground swimming pools
- ▶ Indoor swimming pools
- ▶ Spas
- ▶ Jacuzzis
- ▶ Above-ground swimming pools
- ▶ Bathing & wading pools
- ▶ Hot tubs

Safety barriers are not compulsory for structures not used principally for swimming, paddling or wading eg.

- ▶ Bird baths
- ▶ Fountains
- ▶ Water supply/storage tanks
- ▶ Fish ponds
- ▶ Dams
- ▶ Swimming pools or spas not capable of containing a depth of water greater than 300mm
- ▶ Inflatable swimming pools (typically toddler or wading pools) not capable of containing a depth of water greater than 300mm
- ▶ Spas inside a building which are used for personal hygiene such as a spa bath in a bathroom

### 2. Building a swimming pool and fence requires a building permit

The *Building Act 1993* (the Act) and the *Building Regulations 2006* (the Regulations) require an owner to obtain a building permit when building a swimming pool or spa (capable of containing a depth of water exceeding 300mm), fence or barrier. This permit must include details of the type and location of all barriers, fences, gates, windows, latches, catches, self-closing devices and fly screens.

If the value of the work for the swimming pool and/or fencing is greater than \$5,000 (including labour and materials) the builder must be registered as a building practitioner with the Building Practitioners Board (BPB).

### 3. Requirements for swimming pools or spas built before 8 April 1991

Swimming pools or spas constructed prior to 8 April 1991 or where a building approval was obtained before this date, must have a safety barrier complying with Part 7, Div 1 of the Regulations.

For example, if a building approval (ie. a building permit) was obtained in March 1991, and the construction of the swimming pool was completed in June 1991, swimming pool barriers must comply with Part 7, Div 1 of the Regulations.

### Practice Notes

Safety barrier requirements for this regulation are provided in the table below:

Safety barriers and fittings	Must be either: a fence or other barrier, gate, wall, including doors and windows subject to certain additional requirements. These barriers also include a lock, latch, catch, bolt, self-closer or fly screen.
Doors and gates	All must be fitted with a self-locking or self-latching device located at least 1.5m above the ground or internal floor level, measured from the approach side. The self-locking or self-latching device will automatically operate on the closing of the gate and will prevent the gate from being re-opened without being manually released. All doors and gates regardless of when the swimming pool or spa was built, must be fitted with a device that: <ul style="list-style-type: none"> <li>“ Is located not less than 1.5m above the ground, or the internal floor level, measured from the approach side; and</li> <li>“ Closes the door or gate from any position to engage the lock or latch; and</li> <li>“ Will close from any position without the use of manual force.</li> </ul>
Wall of buildings	These are acceptable as barriers if any door or gate in the wall is fitted with a self-locking or self-latching device located at least 1.5m above the ground or internal floor level, measured from the approach side. The door or gate must also comply with the requirements for doors and gates above.
Windows	These are acceptable as barriers if the openable part of any window in the wall: <ul style="list-style-type: none"> <li>“ Is not less than 2.4m above the ground or paving immediately external to the window; or</li> <li>“ Is not less than 1.5m above the floor of the room containing the window; or</li> <li>“ Has a catch, bolt or lock located not less than 1.5m above that floor level; or</li> <li>“ Has a securely fitted fly screen.</li> </ul>
Paling or Imperforate Fences	These are acceptable as barriers if: <ul style="list-style-type: none"> <li>“ They are at least 1.5 metres in height measured above ground level on the approach side; and</li> <li>“ They are capable of being maintained at all times.</li> </ul>

Fences and gates complying with Australian Standard AS1926.1-1993 ‘Fencing for Swimming Pools’ are also acceptable.

The owner of the allotment containing the swimming pool or spa must determine the extent of the ‘pool area’ of the property, which will require the fences and barriers. In many cases this could be the backyard as shown in figure 1.

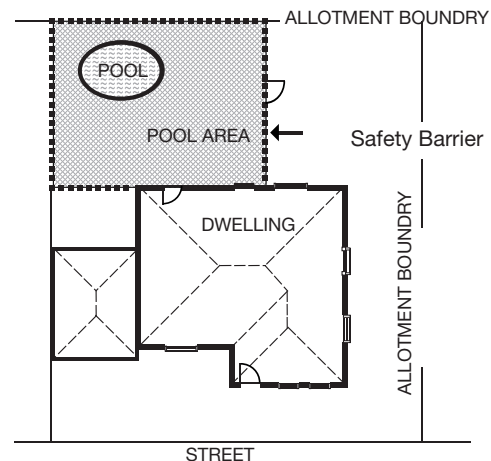


Figure 1

#### 4. Requirements for new swimming pools and spas

The construction of swimming pools and spas associated with a Class 1 Dwelling must be provided with safety barriers that meet Performance Requirement P2.5.3 of the Building Code of Australia (BCA) Volume 2. Performance Requirement P2.5.3 can be met by meeting the Acceptable Construction Manual or Acceptable Construction Practice.

The requirements for Acceptable Construction Manual are contained in clause 3.9.3.0 which specifies compliance with AS 1926.1 - Swimming Pool Safety as acceptable. The requirements for Acceptable Construction Practice are contained in clauses 3.9.3.1, 3.9.3.2, 3.9.3.3, and 3.9.3.4 along with figures 3.9.3.1, 3.9.3.2, 3.9.3.3, 3.9.3.4, 3.9.3.5, 3.9.3.6, and 3.9.3.7.

Where a Building Solution is proposed as an Alternative solution it must comply with Performance Requirement P2.5.3.

The construction of swimming pools and spas associated with a Class 2 or 3 building or a Class 4 part of a building or a children's service, must be provided with safety barriers that meet Performance Requirement GP1.2 of the BCA Volume 1.

Performance Requirement GP1.2 can be met by providing safety barriers in accordance with AS 1926 Part 1 & 2.

Where a Building Solution is proposed as an Alternative solution it must comply with Performance Requirement GP1.2

#### 5. Owners Responsibilities

The owner and occupier (in some circumstances) of the property is responsible for complying with Part 7, Div 1 and Part 12 Div 2 of the Regulations.

Barriers around the area must be installed to restrict access by children under the age of 5 years.

#### 6. Site safety during construction

From a building control perspective the owner is responsible for site safety and from a Workcover perspective the builder is the responsible party.

There are two aspects of public safety that need to be considered when constructing a swimming pool or spa. They are:

1. When excavation work has been undertaken;
2. When the pool or spa is filled with water.

Both of these situations can create a dangerous situation for occupiers of a property, especially young children, whether a resident of the property or not.

Excavations can create a danger where there is potential for people to fall into that excavation. If the excavation is left incomplete for some time, it can become partly filled with ground water or rainwater, therefore creating a drowning hazard for young children.

In these cases where accessible to a street or public reserve the relevant building surveyor (the RBS) may consider using the power provided under regulation 604 (3) to require safety precautions to be undertaken to ensure safety of any person gaining access to the property via a Minor Works Order.

Near completed pools or spas that are filled, or partly filled with water, immediately create a danger, especially for young children.

In instances where the pool may be water filled prior to provision of permanent safety barriers it would be reasonable for the RBS to include a permit condition to provide temporary construction barriers.

#### 7. Maintenance requirements

Part 12 Div 2 of the Regulations requires the occupier of the allotment containing the pool or spa, to keep the fencing, barriers, fittings and safety measures maintained and operating effectively at all times.

Safety checklist for maintaining safety barriers includes:

- ▶ Maintain gates and fences regularly.
- ▶ Fit correct safety measures to gates, doors and windows such as self-closers, latches, flyscreens, catches, and bolts.
- ▶ Make sure no tree branches, pot plants, or other items that could be used to climb the barrier to access the swimming pool or spa are within a 1.2m radius of the safety barrier.
- ▶ Make sure that any chairs, boxes, pool pumps, or other items that could be used to climb the barrier to access the swimming pool are removed.
- ▶ Make sure any fences (especially timber paling fences) are still in good repair and non-climbable.
- ▶ Make sure all gates and doors that provide access to the swimming pool or spa are closed at all times, except when entering or leaving the area.
- ▶ Make sure that the neighbours' properties abutting on to your swimming pool or spa have no potential hazards or climbable objects.

Furthermore, it is an offence to prop open any gate or door that provides access to a swimming pool or spa area.

### 8. Penalties for non-compliance

The enforcement of these regulations is the responsibility of the municipal council of the area where an allotment contains a swimming pool or spa.

The regulations prescribe a fine in excess of \$5,000 that could be imposed on an owner or occupier who fails to comply with the swimming pool or spa safety barrier requirements.

Local councils can also issue a \$200 on the spot fine for certain breaches of regulations.

The Act contains penalties in excess of \$10,000 for failure to carry out work in accordance with the building regulations.

An example of non-compliance may be failure to install self-closing or self-latching devices.