

What you need to know about

Swimming pool and spa safety barriers



Drowning is the most common cause of preventable death for children under five years of age in Victoria.



What is a swimming pool or spa?

A swimming pool or spa is any excavation or structure capable of containing a depth of water greater than 300 mm and used principally for swimming, wading, paddling or the like.

What are safety barriers?

A safety barrier restricts children's access to the area containing a pool or spa. "Safety barrier" refers to a fence, wall, gate or screen, and includes, windows, locks, latches, hinges and self-closing devices attached to them.

With the introduction of the Building Code of Australia 2010 on 1 May 2010, doors that provide access from any building to an outdoor swimming pool or spa area, associated with a residence or a children's service, are no longer permitted as part of a safety barrier for new swimming pool or spa installations. Walls and child resistant windows can still be used as part of a safety barrier.

For new indoor swimming pools or spas, doors may form part of the safety barrier as long as the door opens away from the indoor pool area.

What are safety barriers required for?

Safety barriers are required for in-ground swimming pools, jacuzzis, indoor swimming pools, above-ground swimming pools, spas, hot tubs and inflatable pools (capable of containing a depth of water greater than 300mm).

What are safety barriers not required for?

- Structures not used principally for swimming, paddling or wading, including bird baths, fish ponds, fountains, dams and water supply/storage tanks
- Swimming pools or spas not capable of containing a depth of water greater than 300 mm
- Inflatable swimming pools (typically toddler or wading pools) not capable of containing a depth of water greater than 300 mm
- Spas inside a building that are used for personal hygiene, such as a spa bath in a bathroom.

Why legislate?

Drowning is the most common cause of preventable death for children under five years of age in Victoria. To improve child safety, the State Government introduced pool and spa safety regulations. All pools and spas must have safety barriers. If you don't comply with the regulations, you risk the lives of family and friends as well as substantial fines.

A fully compliant barrier system can never be considered childproof. **Therefore, proper adult supervision is essential to ensuring the safety of children around a swimming pool or spa area.**

What is required?

Swimming pool and spa owners are required by law to meet government regulations and standards. The following laws apply to all swimming pools and spas:

- All swimming pools and spas capable of containing a depth of water exceeding 300 mm must have suitable child resistant safety barriers
- A building permit is required for the construction of all pools (including those above ground) and spas that are capable of containing a depth of water greater than 300 mm. The permit must be issued by a municipal or private building surveyor
- A building permit is required for installing and altering all swimming pool and spa safety fences and barriers
- Suitable child resistant safety barriers must be completed within six months of building work starting on swimming pools and spas
- Any swimming pool or spa safety barrier must be maintained in good working order
- All access points to a swimming pool or a spa must have self-closing and self-latching devices, regardless of when they were built
- It is an offence to prop open any self-closing or self-latching device providing access to a swimming pool or spa.

What are the penalties for non-compliance?

The *Building Act 1993* (the Act) and the *Building Regulations 2006* (the Regulations) prescribe substantial fines that could be imposed on an owner or occupier who fails to comply with the swimming pool or spa safety barrier requirements. Local councils are responsible for enforcing the Regulations and the Act and can issue on the spot fines for certain breaches.

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

Is a building permit required to build a pool or fence?

The Act and Regulations require an owner to obtain a building permit for the construction of permanent pools (including above ground) and spas that are capable of containing a depth of water greater than 300mm. Temporary inflatable pools or portable spas are exempt from requiring a permit each time they are erected. However temporary inflatable pools or portable spas will still require a permanent compliant barrier for which a building permit is required.

A building permit is also required for installing and altering all swimming pool and spa safety barriers including windows, doors and gates that provide access to a pool or spa area.

A new swimming pool safety barrier/fence always requires a building permit.

The building permit must be issued by a municipal or private building surveyor. An application for a building permit must include details of the type and location of all barriers including latches, catches, self-closing and self-latching 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.

If the building work is a repair, reconstruction or renewal of any part of an existing swimming pool safety barrier/fence you may be exempt from requiring a building permit. You should seek professional advice in relation to an exemption.

It is assumed that the existing safety barrier/fence being replaced would have complied with the Regulations at the time it was installed, and that the repair, reconstruction or renewal work would not alter compliance with the Regulations. If you are in any doubt, contact your municipal or private building surveyor.

How do you comply?

Swimming pool and spa safety barrier regulations have changed over time, depending on when your swimming pool or spa was constructed, different regulations may apply. The next three sections look at some aspects of the regulations for swimming pools and spas constructed:

- before 8 April 1991
- on or after 8 April 1991 but before 1 May 2010
- on or after 1 May 2010.

For more information talk to a building surveyor or pool designer.

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

A safety barrier may be a wall of a building if:

- a. any door in the wall providing access to the pool area is self-closing and fitted with a self locking or self latching device located at least 1.5 metres above the ground level or internal floor level; and
- b. the openable part of any window in the wall:
 - i) is not less than 2.4 metres above the ground or paving immediately external to the window; or
 - ii) is not less than 1.5 metres above the floor of the room containing the window; or
 - iii) has a catch, bolt or lock located not less than 1.5 metres above that floor level to prevent the window opening more than 125mm; or
 - iv) has a securely fitted fly screen.



Fences and gates complying with AS 1926.1-1993 'Fencing for Swimming Pools' also satisfy the requirements for a safety barrier. Alternatively, a paling fence complies as a safety barrier if:

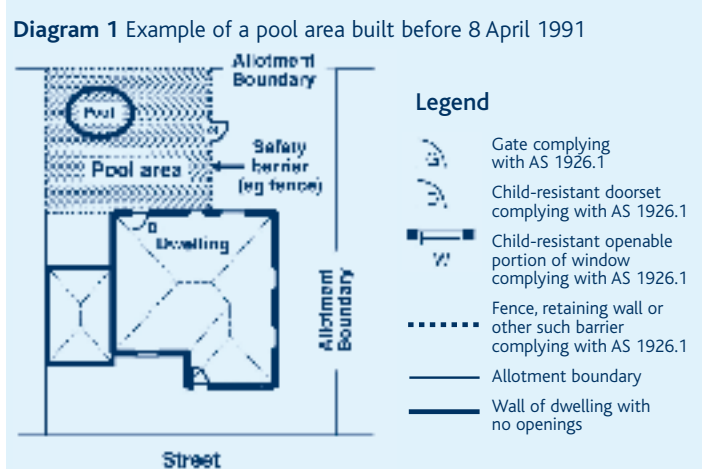
- a. it is at least 1.5 metres in height measured above ground level on the approach side; and
- b. any gate in the fence is fitted with a self-locking or self-latching device located at least 1.5 metres above the ground level.

(If a boundary fence is to be incorporated as a safety barrier, the pool owner must have the adjoining owner's consent to any alterations.)

All doors and gates that allow access into the pool area containing a swimming pool or spa must be fitted with a device that returns the door or gate to its closed position:

- a. from any position in the range of positions from fully open to resting on the lock or latch; and
- b. from a stationary start from any position within that range without the application of manual force.

The pool owner 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 the figure below.



Swimming pools and spas built ON or AFTER 8 April 1991 but BEFORE 1 May 2010

All swimming pools and spas constructed, or for which a building approval or building permit was issued ON or AFTER 8 April 1991 and BEFORE 1 May 2010, must have a child-resistant safety barrier that complies with the Australian Standard AS 1926 Part 1 - 1993, which states:

1. Swimming pool or spa safety fencing must be designed and constructed so that young children cannot climb on the fence or any attached members. The fence height, any horizontal fencing components, such as openings, footholds in the fence, and the operation of self-closing and self-latching gates must be taken into account.
2. Gates must swing outwards from the swimming pool or spa area and be fitted with a self-closing device that will return the gate to the fully closed position and engage the latching device.
3. The latching device must automatically operate on the closing of the gate and prevent the gate from being re-opened without manual release. This device must also be located a minimum of 1.5 metres above finished ground level.
4. Walls of buildings can also be acceptable, subject to consideration of doors and windows as set out in Australian Standard 1926.1.
5. A 1.2 metre clearance around the safety barrier is required which must not contain any climbable elements. This may apply to adjoining property.

Fences and gates complying with AS 1926 Part 1 - 1993 satisfy the requirements of the *Building Code of Australia* 1991 to 2009 as a safety barrier.

Note: If you are replacing an existing safety barrier with a new barrier for a swimming pool or spa built during this period you will need to comply with the new regulations introduced 1 May 2010 for safety barriers and the work will require a building permit.

Swimming pools and spas built ON or AFTER 1 May 2010

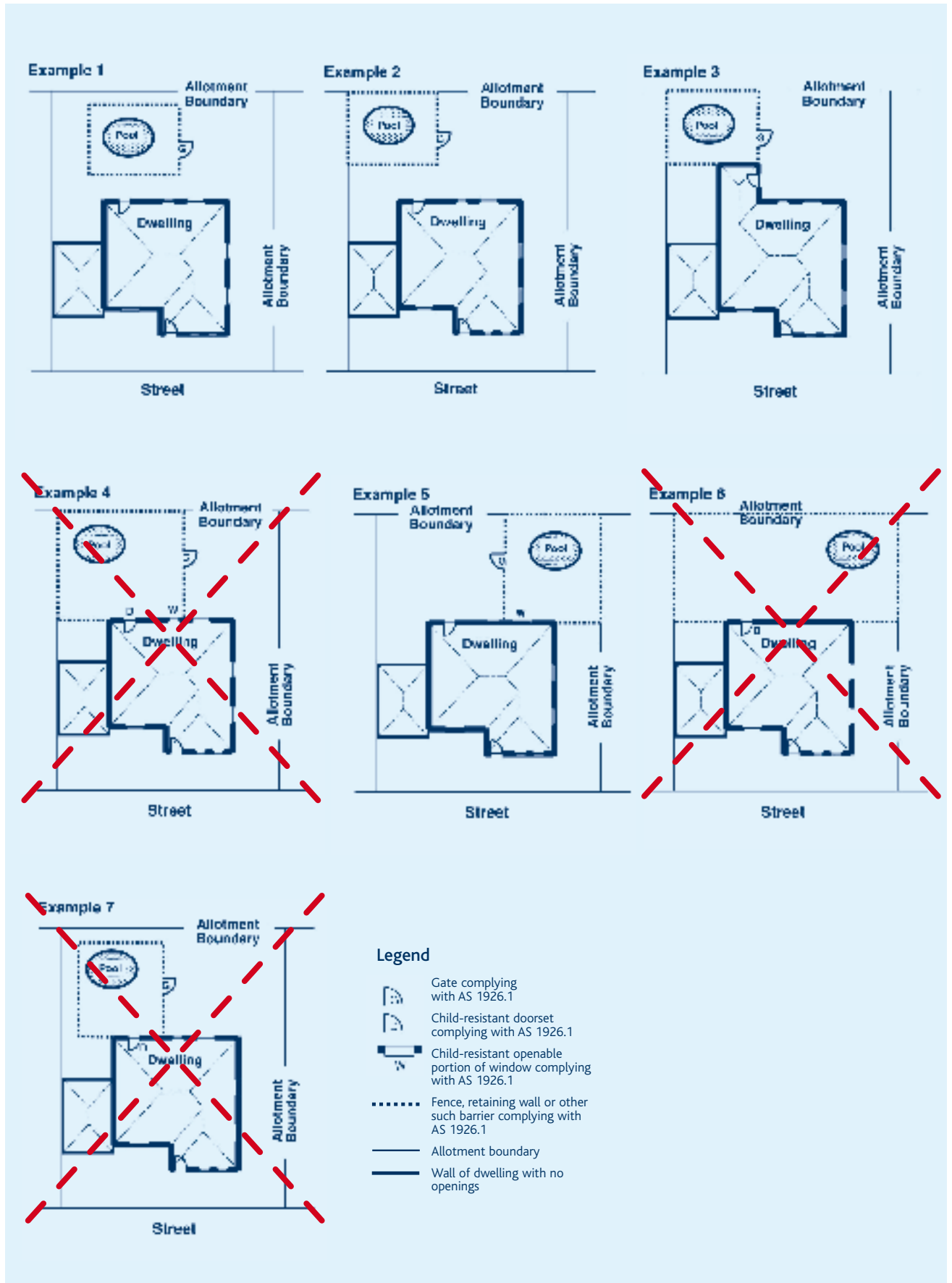
All swimming pools and spas constructed, or for which a building approval was granted ON or AFTER 1 MAY 2010, must comply with the *Building Code of Australia* 2010 which states:

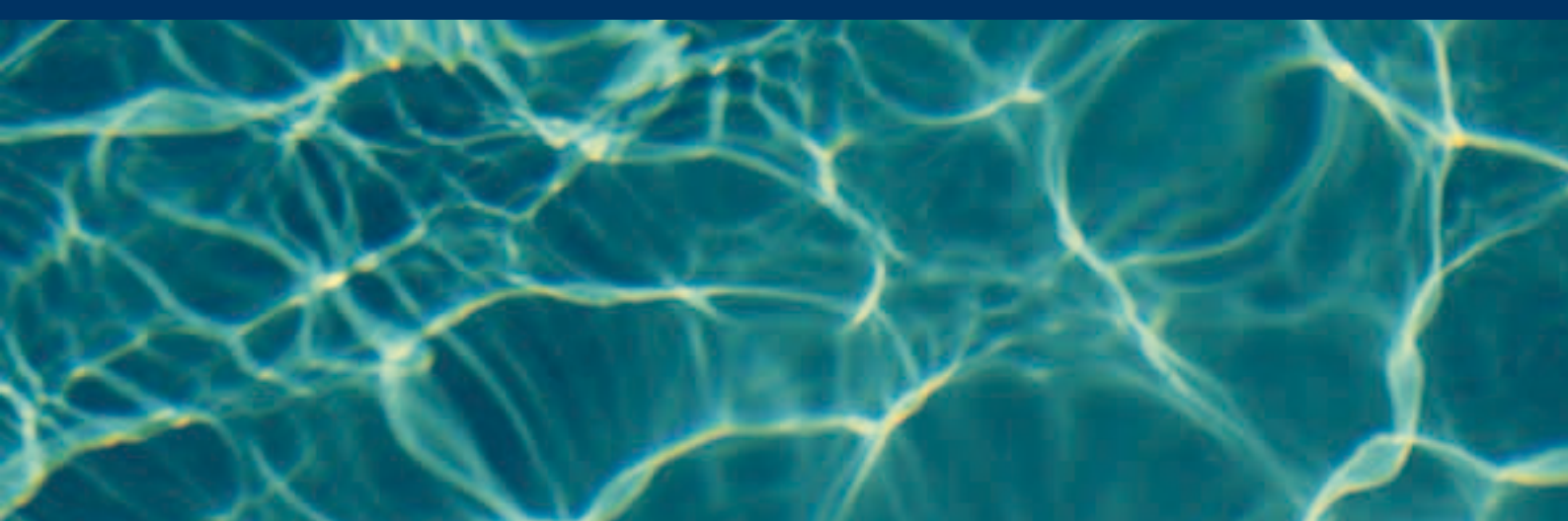
1. Swimming pool or spa safety barriers must not use a door leading directly to the outdoor swimming pool or spa area.
2. Windows with child resistant screens are acceptable.

Australia Standard 1926 Part 1 and Part 2 - 2007 have been introduced to update barrier requirements, namely, a 900mm non-climbable zone and changes to using boundary fences as a pool barrier including 1.8 metre fence height, climbable elements and consideration of adjoining property. For more information talk to a building surveyor or pool designer.

Where should safety barriers be located?

The following examples show where safety barriers are typically located. Examples 4, 6 and 7 are not permitted for swimming pools or spas constructed under a building permit issued ON or AFTER 1 May 2010.





What maintenance is required?

Safety barriers should be maintained regularly. The following is a checklist for maintaining safety barriers:

- Maintain safety components of gates, doors (where permitted at time of construction) and windows such as self-closers, latches, flyscreens, catches, and bolts by adjusting as required to keep in good working condition
- Make sure there are no chairs, boxes, pool pumps, tree branches, pot plants, or other items close to the barrier that could be used to climb the safety barrier to access the swimming pool or spa
- Make sure any fences (especially timber paling fences) are in good repair and non-climbable
- Ensure all gates and doors (where permitted at time of construction) that provide access to the swimming pool or spa are closed at all times, except when entering or leaving the area
- Where applicable make sure that the neighbours' properties adjoining your swimming pool or spa area have no potential hazards or climbable objects.

As the occupier of a home you are responsible for taking all reasonable steps to ensure that any fence or barrier restricting access to a swimming pool or spa area is maintained and operating effectively. If you don't comply with the regulations, you risk the lives of family and friends as well as substantial fines.

Frequently asked questions

1. What if I have an above ground swimming pool or spa?

The walls of an above ground swimming pool or spa provide a barrier if they are at least 1.2 m in height and do not have a surface which enables a child to gain a foothold and climb into the swimming pool or spa. Any objects that could be climbable by a young child, such as a pool ladder, pool filter and pump equipment should be properly fenced.

2. I have recently purchased a house where there is no fence around the swimming pool or spa. Whose responsibility is it to install a fence?

As the new owner you are responsible for ensuring that the safety barrier is provided. If you own, or are purchasing a home with a swimming pool or spa, and are not sure that the swimming pool or spa fence or barrier complies, check with a private or local council building surveyor.

3. I have recently purchased an inflatable swimming pool. Does it require fencing?

An inflatable swimming pool, which is capable of containing a depth of water greater than 300 mm, requires a permanent safety barrier. This may be typical swimming pool fencing, boundary fencing with additional consideration and/or treatment to gates, fences, walls of the house and windows, or any combination of these.

4. I have recently installed a cover over the swimming pool or spa. Does it comply with the legislation as a safety barrier?

No. The placing of a cover or lid over the swimming pool or spa does not meet safety barrier requirements. You are required to provide a safety barrier.

5. How do I know if the barrier around my swimming pool complies with the law?

A private or local council building surveyor or building inspector can provide you with further written details of what is required for compliance usually on a fee-for-service basis.

6. I have an existing barrier with a doorway leading into a pool area, and the opening contains a solid door as well as a flywire door. Which door must comply with the Regulations?

It is only necessary to fit child-resistant door furniture to one of the doors. In choosing which door, you must ensure that access will be restricted to the pool area, and that the door will form part of the continuous pool barrier. In the case where the door chosen is a screen door it is recommended that the door be of solid construction with securely fitted fly wire. The door must be kept closed and latched or locked at all times, except when a person is in the act of entering or leaving the pool area.

7. I am installing a new pool or spa. Can I use a door from my dwelling into the outdoor pool area?

No, for new safety barriers installed from 1 May 2010, direct access from any building into an outdoor pool area is not permitted.

Need more information?

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