

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 legally required?

Swimming pool and spa owners are required by law to meet government standards and regulations. Some of these laws include:

- All swimming pools and spas capable of containing a depth of water exceeding 300 mm (30 cm) 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 including windows, doors and gates that provide access to a pool or spa area
- 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 fence, barrier, gate or door must be maintained in good working order
- All gates and doors providing access 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 gate or door providing access to a swimming pool or spa.

## 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 have introduced pool and spa safety regulations. All pools and spas must now have safety barriers. If you don't comply with the regulations, you risk the lives of family and friends as well as fines of up to \$5,000.

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 a swimming pool or spa?

A swimming pool or spa is any excavation or structure capable of containing a depth of water exceeding 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 doors, gates, windows, locks, latches, hinges and self-closing devices attached to them.

## What are safety barriers required for?

Safety barriers are required for in-ground swimming pools, jacuzzis, indoor swimming pools, above-ground swimming pools, spas, bathing and wading pools and hot tubs.

## 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.

## What are the penalties for non-compliance?

The *Building Regulations 2006* (the Regulations) prescribe a substantial fine 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 can issue on the spot fines for certain breaches.

The *Building Act 1993* (the Act) contains penalties of up to \$10,000 for failure to carry out work in accordance with the Regulations.

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 all pools (including above ground) and spas that are capable of containing a depth of water greater than 300mm. 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.

The circumstances where a swimming pool safety barrier/fence would require a building permit relate to:

- Building work involving the installation of isolation fencing around an existing unfenced swimming pool/spa or
- The relocation and/or extension of a swimming pool safety barrier/fence. This would be classed as new work as opposed to the repair, reconstruction or renewal of an existing safety barrier/fence in the same location as the existing barrier.

The 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, fences, gates, doors, 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.

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. In determining whether building work is exempt, the key criteria to consider are:

- The work is for maintenance or renewal purposes only
- The materials commonly used to those being replaced are being used and
- The work will not adversely affect the safety of the public or occupier of the building.

It is assumed that the existing safety barrier/fence being replaced would have complied with the Regulations 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.

## What if you have a previous exemption?

If you have received an exemption prior to 21 December 2001, you are now required to comply with the current Regulations.

If you are in any doubt, contact your municipal or private building surveyor.

## How do you comply?

### 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 of 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 securely fitted fly screen.



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

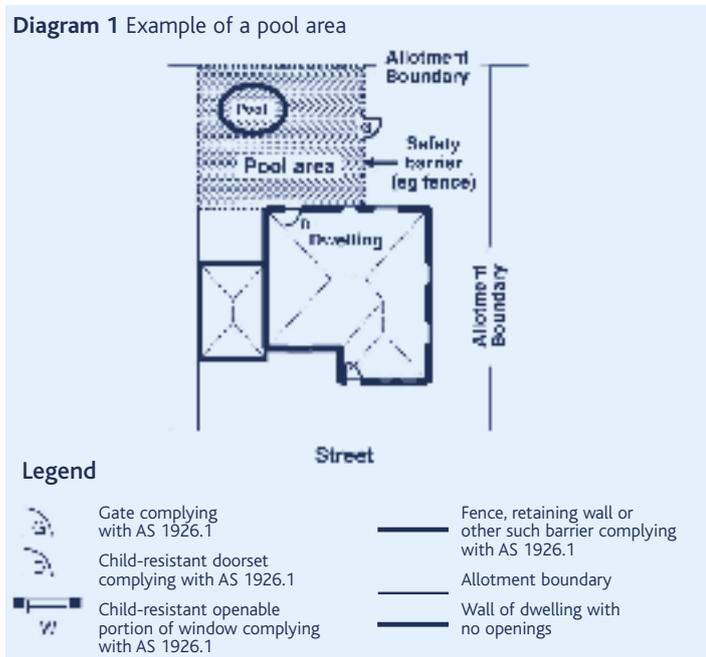
- it is at least 1.5 metres in height measured above ground level on the approach side and;
- any gate in the fence is fitted with a self-locking or self-latching device located at least 1.5 metres above the ground level.

(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 regardless of when the swimming pool or fence was built, that allow access into the pool area containing a swimming pool or spa must now be fitted with a device that returns the door or gate to its closed position:

- from any position in the range of positions from fully open to resting on the lock or latch and
- 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

All swimming pools and spas constructed, or for which a building approval was granted ON or AFTER 8 April 1991 must have a child-resistant safety barrier that complies with the Australian Standard 1926 Parts 1 and 2, which states:

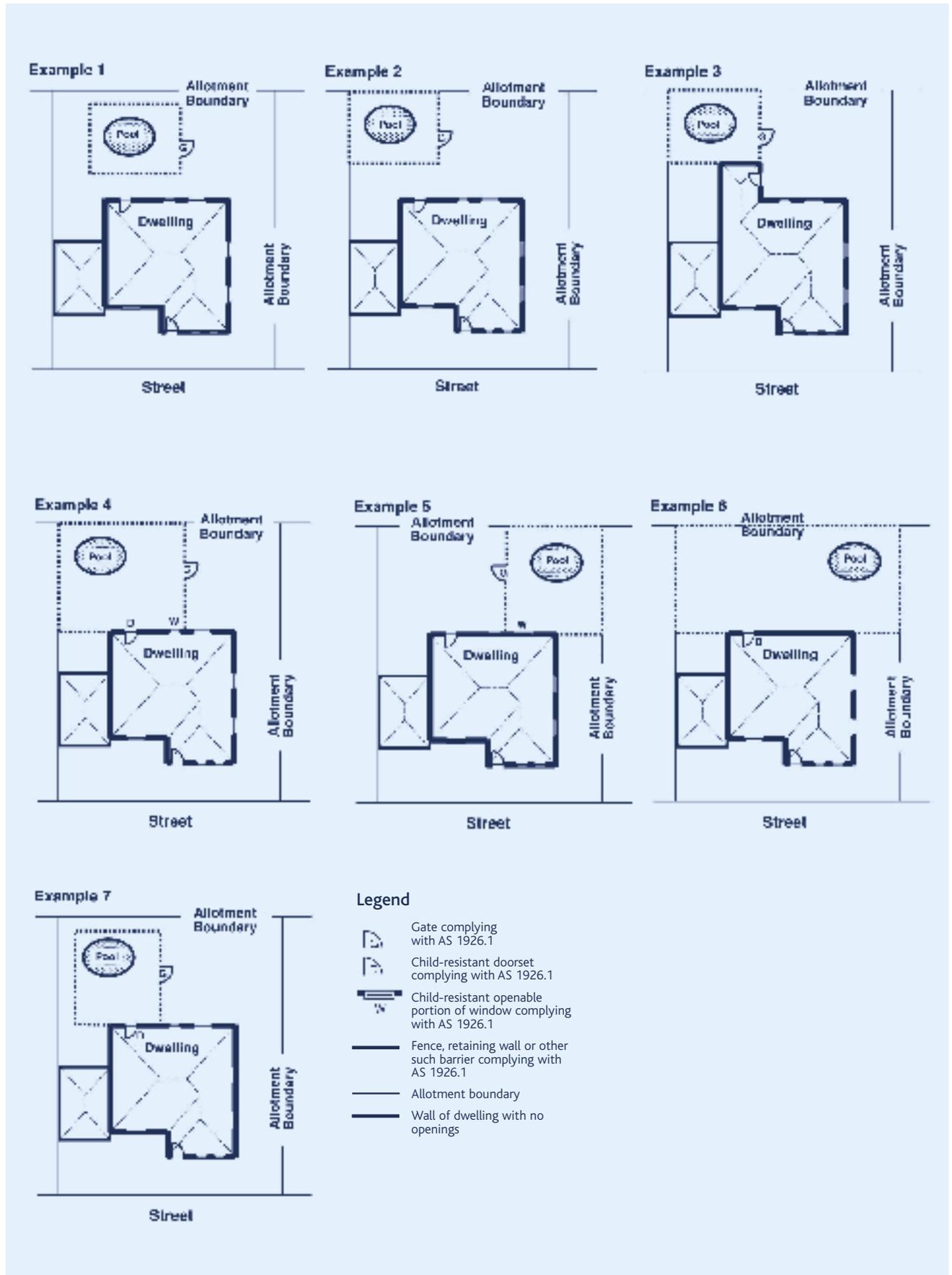
- Swimming pool or spa safety fencing must be designed and constructed so that young children cannot climb on the fence or any attached members. The fence height, any horizontal fencing components, such as openings, footholds in the fence, and the operation of self-closing and self-latching gates must be taken into account.
- 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.
- 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.
- Walls of buildings can also be acceptable, subject to consideration of doors and windows as set out in Australian Standard 1926.1.

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

In all cases, fencing, barriers and safety equipment must be completed within six months of work starting on the construction of a swimming pool or spa.

## Where should safety barriers be located?

The following examples show where safety barriers are typically located.





## What maintenance is required?

The Building Commission recommends the following safety checklist for maintaining safety barriers:

- Maintain gates and fences regularly
- Maintain correct safety measures to gates, doors 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 tree branches, pot plants, or other items that could be used to climb the barrier to access the swimming pool or spa within a 1.2 m radius of the safety barrier
- Ensure 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 in good repair and non-climbable
- Ensure 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 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.

## 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 your 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 safety barrier. This may be typical swimming pool fencing, boundary fencing with additional consideration and/or treatment to gates, fences etc, the walls of the house with additional consideration and/or treatment to doors and windows etc, or any combination of these.

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

The placing of a cover or lid over the swimming pool or spa does not comply. You are required to provide a safety barrier.

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

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

### 6. I have 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.

## Need more information?

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