Swimming Pool and Spa Safety Barriers Fact Sheet

The Building Act 1993 and Building Regulations 2006 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 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.

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.

Building a swimming pool and fence requires a building permit.

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 safety barriers complying with Part 7 of the Building Regulations 1994. 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.

This regulation has been a requirement since 1 July 1997 and owners of unprotected pools and spas risk having an infringement notice issued on them, or face prosecution in the Magistrate's Court by the local municipal council.

Safety barrier requirements for Part 7 are provided in the table below:

Safety barriers and fittings	Must be a fence or other barrier including a gate or wall. Other barriers could also include doors and windows subject to certain additional requirements. Safety fittings within these barriers could include a lock, latch, catch, bolt, and self-closer or fly screen.
Doors and gates	All doors and gates providing access to the part of the allotment containing a pool or spa 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 door or gate and will prevent the door or 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 self closing device that: • Is located not less than 1.5m above the ground, or the internal floor level, measured from the approach side; and • Closes the door or gate from any position to engage the lock or latch; and • Will close from any position without the use of manual force.

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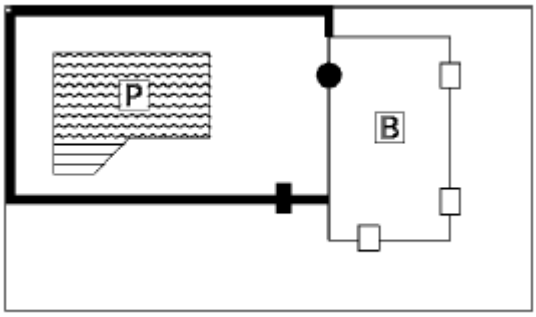
Walls of buildings	These are acceptable as barriers if any door or gate in the wall is fitted with a self-locking or self-latching and self-closing device located at least 1.5m above the ground or internal floor level, measured from the approach side.
Windows	These are acceptable as barriers if the opening part of any window in the wall: • Is not less than 2.4m above the ground or paving immediately external to the window; or • Is not less than 1.5m above the floor of the room containing the window; or • Has a catch, bolt or lock located not less than 1.5m above that floor level; or • Has a securely fitted fly screen.
Paling fences	These are acceptable as barriers if: • They are at least 1.5 metres in height measured above ground level on the approach side; and • They are capable of being maintained, by the pool owner, at all times.

Fences and gates complying with Australian Standard 1926 Part 1 'Fencing for Swimming Pools' are also acceptable. 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.



LEGEND:

P

B

Window complying with Regulation 705 of the Building Regulations 2006

Property Boundary

Barrier complying with Regulation 703 of the Building Regulations 2006

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Requirements for 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 Part 1 'Fencing for Swimming Pools' and 1926 Part 2 'Location of fencing for private swimming pools.'

The Standard states that:
Swimming pool or spa safety fencing must be designed and constructed so as to be non-climbable by young children. The height of the fence and any horizontal fencing components, 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 the latching device must automatically operate on the closing of the gate and prevent the gate from being re-opened without manual release.

The fencing must be in accordance with one of the examples below and must ensure that the effective fencing height is not compromised by nearby objects such as trees.

Existing boundary paling fences may be used as a barrier if the palings are on the non-swimming pool or non-spa side of the fence. If the railings of the fence are on the non-swimming pool/spa or the approach (neighbours) side, they will provide foot and hand holds that will allow children to climb them. However, consideration must be given to the maintenance of that fence from your neighbour's side.

In using boundary fencing as part of a safety barrier to a swimming pool the owner/occupier may have difficulties in maintaining the effectiveness of the safety barrier. Nevertheless, the Building Regulations 2006 impose the responsibility for maintenance of the safety barrier on the owner/occupier of the property containing the swimming pool or spa. Walls of buildings may also be acceptable as barriers, subject to consideration of doors and windows as set out in the Australian Standard 1926 Part 1 'Fencing for Swimming Pools'.

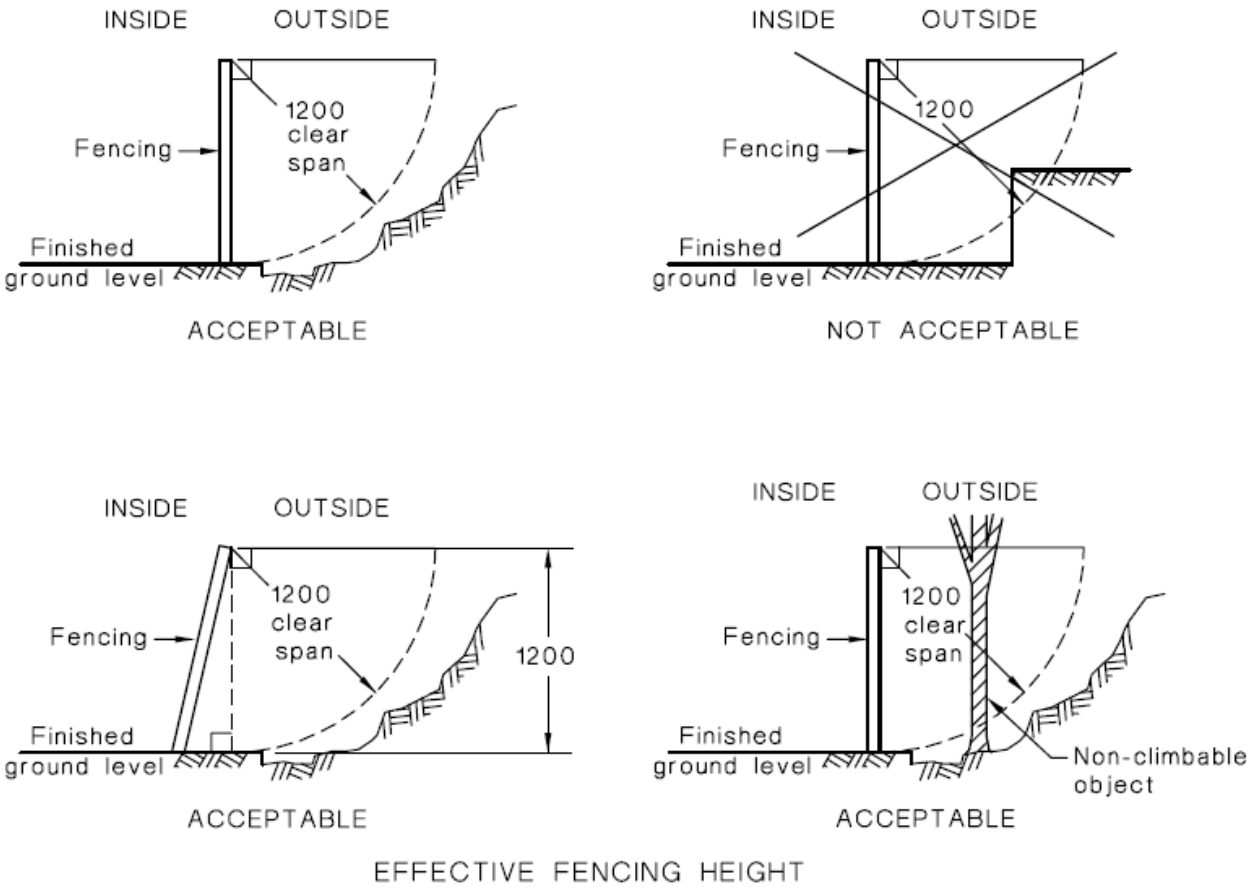
In all cases, fencing, barriers and safety equipment must be completed within six months of work starting on the construction of and before a swimming pool or spa is filled with water.

FENCING HEIGHT

General

The effective fencing height shall be not less than 1.2m.

The height shall be considered to be effective if a quadrant of radius 1.2m, located as shown in Figure 2.1, provides a clear span of 1.2m to finished ground level, or to any projections from, or objects on, the ground, except for non-climbable objects which are able to be positioned within the 1.2m radius.



EFFECTIVE FENCING HEIGHT

Perforated material or mesh

Fencing using perforated materials or mesh with apertures not greater than 13mm shall have an effective fencing height not less than 1.2m.

Fencing using perforated material or mesh with apertures greater than 13mm but less than 100mm shall comply with one of the following:

(a) The effective fencing height shall be not less than 2.4m.

(b) The vertical section shall have an effective fencing height of not less than 1.8m, where a cranked top is provided as shown in. The cranked top shall have apertures less than 100mm.

Fencing using mesh shall include a strainer wire or rail at the top and the bottom of the fencing.

HORIZONTAL CLIMBABLE MEMBERS

Where fencing components provide a substantially horizontal surface, such as rails, rods, wires or bracings, that could be used as holds for climbing are located on the outside of the fencing, or where vertical members are spaced such that they provide clear openings of more than 10mm width, the following requirements shall apply:

(a) Horizontal members shall be not less than 900mm apart. Where there are two or more horizontal members, this measurement shall be made from the top surface of the highest lower member to the top surface of the lowest upper member. Where the fence is for a sloping site, the distance between the top surface of the highest lower member and the top surface of the lowest upper member shall be not less than 900mm, measured perpendicular to the finished ground level.

(b) The top surface of the highest lower horizontal member shall be at least 1.1m below the top of the fence.

NOTE: Substantially horizontal surfaces such as rails, rods, wires, or bracings that could be used as holds for climbing, and which comply with the Items (a) and (b), should be located on the inside of the fence.

HORIZONTAL NON-CLIMBABLE MEMBERS

As an alternative horizontal members such as rails, located on the outside of the fencing shall not act as a hold for climbing if they comply with the following requirements:

(a) Horizontal members comply with the figure below.

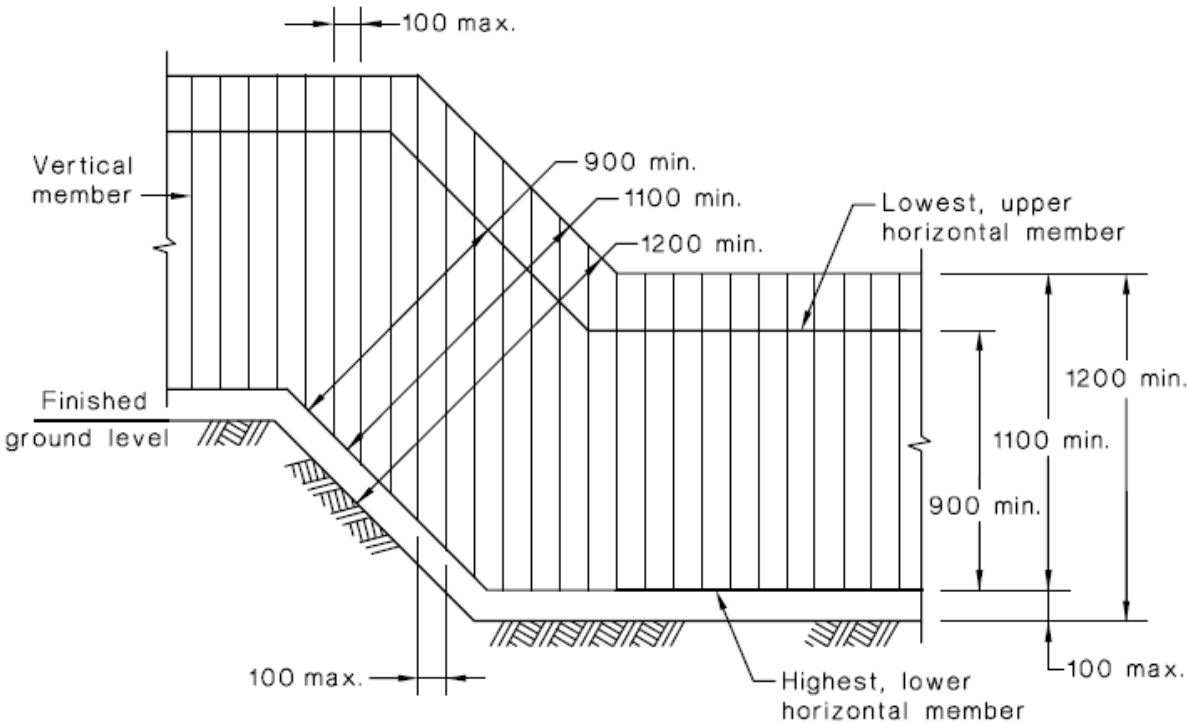
(b) Vertical members are spaced to provide a clear opening of not more than 10mm.

HORIZONTAL SURFACES INSIDE THE FENCING

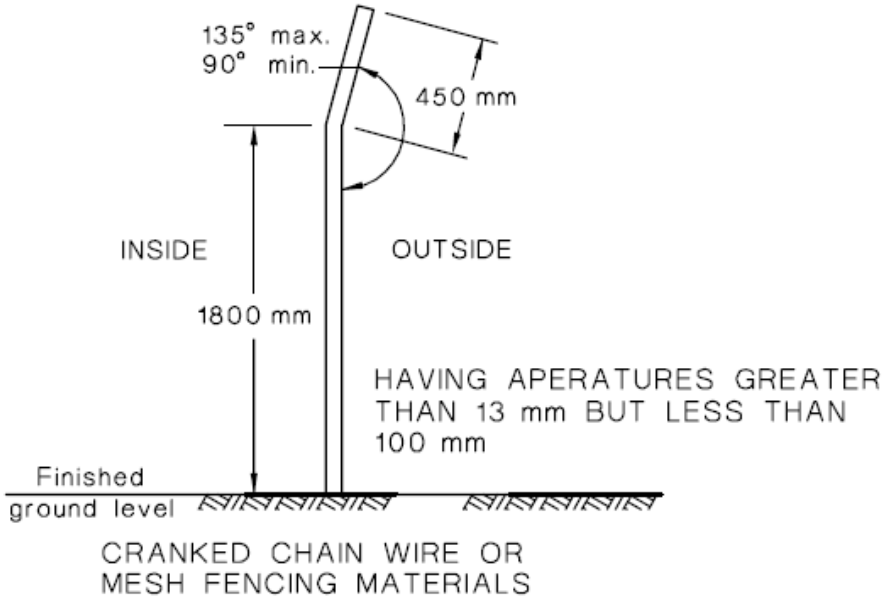
Where any nearby horizontal surfaces that could be used as holds for climbing are permanently located near the inside of the fencing and where the spacing between vertical members is greater than 10mm, such surfaces shall be separated from the fencing by a distance of not less than 300mm.

VERTICAL MEMBERS

The clear space between any adjacent vertical members, such as palings, rods or wires, shall not exceed 100mm at any point.



PERPENDICULAR FENCING DIMENSIONS ON SLOPING GROUND



RETAINING WALL OR OTHER SUCH BARRIER

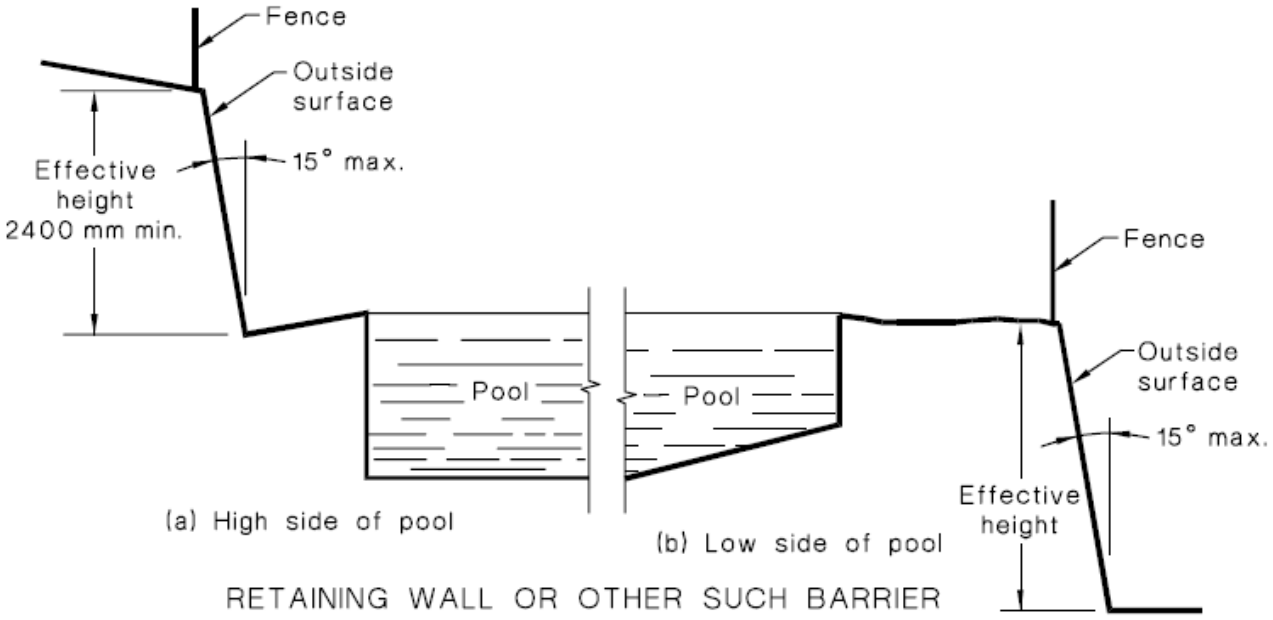
A retaining wall or other such barrier on the high side of the pool shall be an effective barrier if it complies with the following:

(a) It has an effective height of not less than 2.4m and an outside surface complying with the requirements for outside surfaces

(b) It does not slope away from the pool by more than 15° to the vertical. A retaining wall or other such barrier on the low side of the pool shall be an effective barrier if it does not slope towards the pool by more than 15° from the vertical and complies with either of the following:

(c) It has an effective height not less than 1.2m and complies with the requirements for outside surfaces

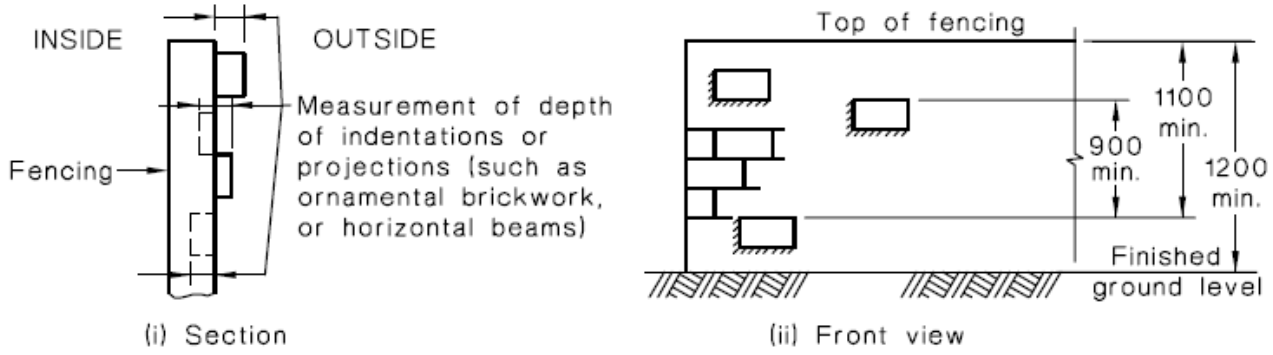
(d) It has an effective height of not less than 2.4m if the outside surface does not comply with the requirements for outside surfaces



OUTSIDE SURFACE

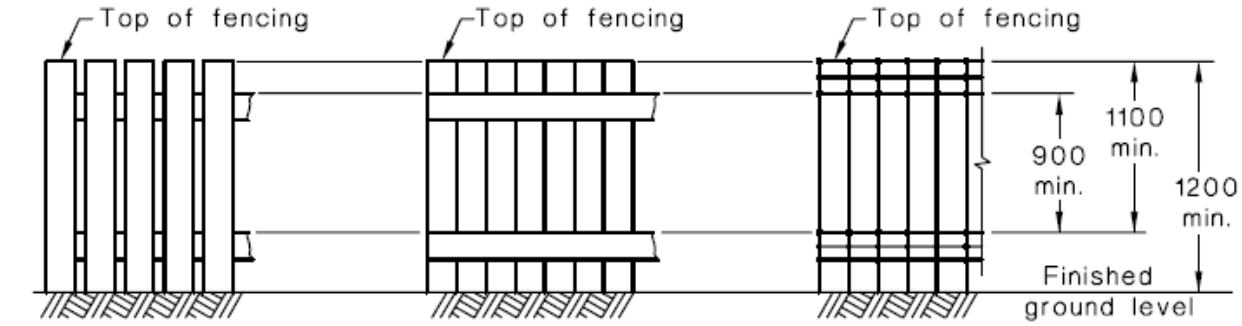
Projections from or indentations into the outside surface of the fencing, or any combination of projections and indentations, shall not form a substantially horizontal surface with a depth greater than 10mm, unless they are spaced not less than 900mm apart and provided that the lower projections or indentations are at least 1.1m below the top of the fencing (see Figure 2.5).

Projections or indentations which form a substantially horizontal surface do not act as a hold for climbing if they comply with Figure 2.6. The fence shall be designed to be vertical, or where specifically designed to lean towards the pool, it shall not do so by more than 15° to the vertical



(i) Section (ii) Front view

(a) Fencing with projections such as ornamental brick or stonework



(b) Rails inside, but with uprights spaced not more than 10 mm apart

(c) Rails on outside

(d) Fencing with several horizontal members, such as welded steel construction

SPACING OF ACCESSIBLE HORIZONTAL MEMBERS, OR PROJECTIONS OR INDENTATIONS

Rails on approach side: Vertical palings staggered with a maximum gap of 10mm or overlap palings. Palings to be securely fastened to prevent ladder access to pool enclosure. Means of protection must extend 1200mm beyond fence intersection. Wire mesh with a max 13mm aperture to top and middle rails to eliminate middle rail as a foothold to prevent ladder access

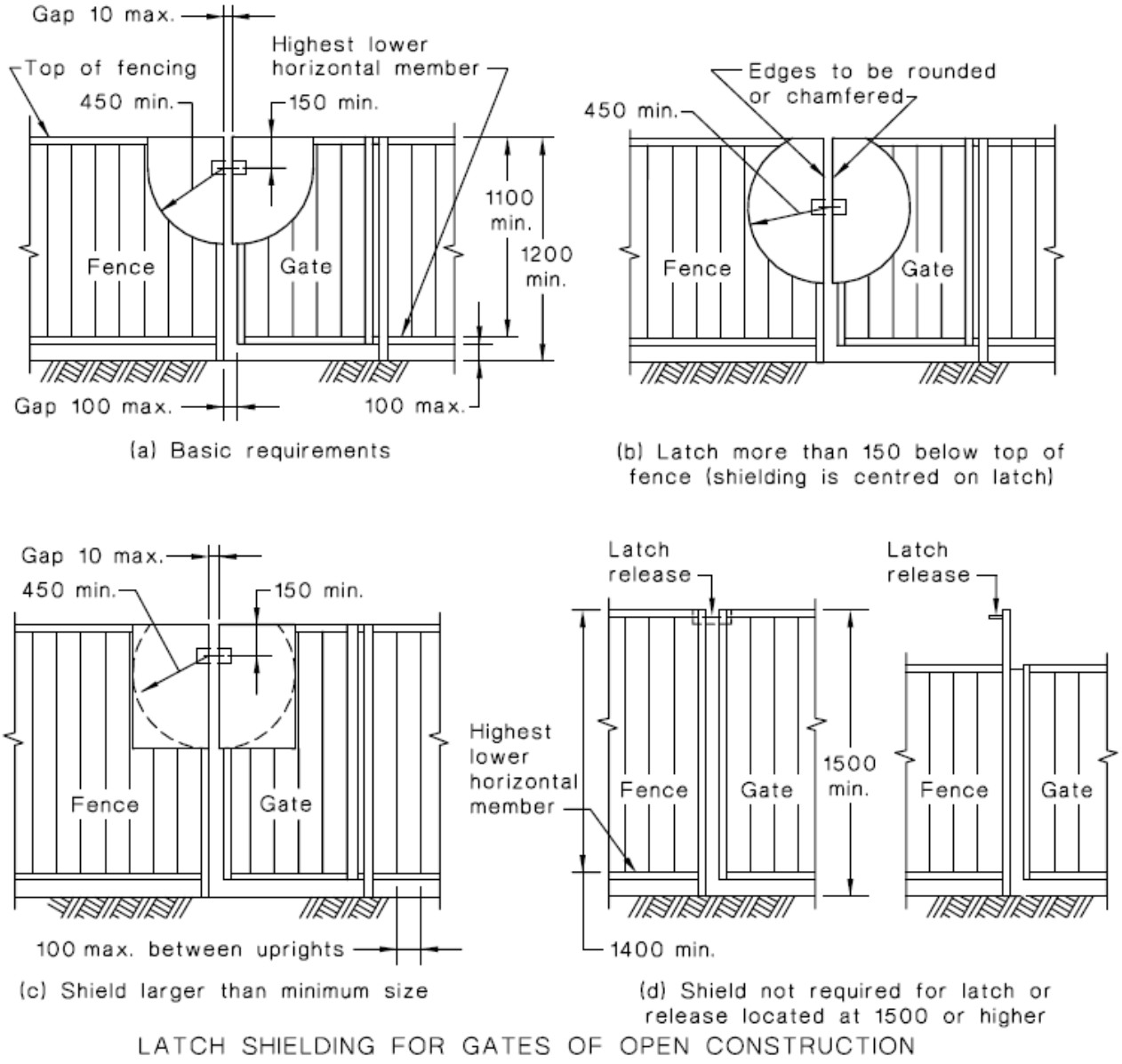
At the intersection of all pool enclosure fences, all horizontal rails to be covered 300mm internally and 1200mm externally to prevent ladder access

LATCHING DEVICES

Gates

Gates shall be fitted with a latching device that will automatically operate on the closing of the gate and will prevent the gate from being re-opened without being manually released.

The latching device shall not be able to be inadvertently adjusted during operation, and shall not be able to be adjusted without the use of tools. When in the closed position, the latching mechanism shall not be able to be released by the insertion of any implement between the 10mm gap particularly from below the mechanism.



LATCH SHIELDING FOR GATES OF OPEN CONSTRUCTION

Location of the latching device
Where the release to the latching device or the latch is located at a height less than 1.5m above the finished ground level or 1.4m above the highest lower horizontal member and is capable of being released at the latching mechanism, the location of the release of the latching device shall—

(a) Not be on the outside of the fencing;

(b) be in such a position that to release the latching device from the outside it will be necessary to reach over or through the fencing at a height of not less than 1.2m above the finished ground level or not less than 1.1m above the highest lower horizontal member; and

(c) Be at least 150mm below the top of the gate if a hand-hole is not provided, or at least 150mm away from the edge of any hand-hole opening if a hand-hole is provided.

Shielding of latching device
Where the release to either the latching device or the latch is located at a height less than 1.5m above the finished ground level or 1.4m above the highest lower horizontal member and is capable of being released at the mechanism, the latch and its release shall be so shielded that no opening greater than 10mm occurs within an area bounded by—

(a) An effective radius of 450mm from the operating parts of the latch; and

(b) The top of the fence, if this intersects the area described in Item (a).

Where it is necessary to have a hand-hole in a gate, the bottom of the opening shall be not less than 1.2m above the finished ground level or 1.1m above the highest lower horizontal member, and the shielding shall be extended up to a horizontal line through the top of the hand-hole, or 150mm above the top of the latch, whichever is the higher.

The shield shall be free of sharp edges and the edges of the adjacent parts of the shield on the gate and the fence shall be rounded or chamfered to prevent a hazard when the gate closes.

GATES AND FITTINGS

Direction of opening
Gates shall be hung so that they only swing outwards, i.e. away from the pool area.

Self-closing device
All gates shall be fitted with a device that will return the gate to the closed position and operate the latching device from any position with a stationary start without the application of a manual force.

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

CHILD-RESISTANT OPENABLE PORTION OF WINDOW

Where the height from the sill of the lowest opening panel of the window to the pool surround is less than 2.4m, the openable portion of the window shall comply with one of the following requirements:

(a) Where the height from the sill of the lowest opening panel of a window to the floor is not greater than 900mm, then—

  (i) The openable portion of the window shall be totally covered by bars or a mesh screen which complies with the test for strength and rigidity of fence openings and the strength test for fence components in AS1926.1. The bars or mesh screen shall be fixed to the building with fasteners that can only be removed by the use of a tool, e.g. a key, screwdriver or spanner; or

  NOTE: Covering a window with bars or a mesh screen limits egress from the building in an emergency, and rescuers from entering the building.

(ii) Windows shall be fixed in such a way that they will only open sufficiently far to comply with the test for strength and rigidity of fencing openings in AS1926.1.

(b) Where the height from the sill of the lowest opening panel of a window to the floor is greater than 900mm but not greater than 1200mm then the openable portion of the window shall comply with (a) above or shall be fitted with a securely fixed flyscreen.

(c) A window not complying with Items (a) or (b) shall be located at such a height that the distance from the floor to the sill of the lowest opening panel is greater than 1.2m.

CHILD-RESISTANT DOORSET

Child-resistant door sets shall comply with the following requirements:

(a) Doors shall 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 without manually releasing the device.

(b) Doors shall be fitted with a self-closing device that will return the door to the closed position and operate the latching device from any position with a stationary start without the application of a manual force.

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 open.

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

(d) There shall be no footholds wider than 10mm on the door or its frame in the area from the release for the latching device down to 100mm above the floor.

(e) The closing and latching of the door shall comply with Clause 3.4.

(f) Horizontal members, vertical members, perforated materials or mesh, and finish shall comply with Australian Standard AS1926.1.

(g) The door set shall comply with the performance requirements for a gate for strength and rigidity of openings and strength of gate.

MAINTENANCE CHECKLIST

The City of Darebin recommends the following safety checklist for maintaining your 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 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 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 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.

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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 1.2m 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 building surveyor or your 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 300mm, 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 and is not acceptable. 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 local council building surveyor or any private 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 door way leading into a pool area, and t he 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 were 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.

DISCLAIMER

This is a handout prepared with the intention to assist on the interpretation of safety requirements regarding swimming pool access required under The Building Regulations 2006 (main regulations), the Building Code of Australia (BCA) and AS1926.1-1993 (the Standard). These documents spell out the minimum safety requirements for swimming pools constructed or for which a building permit was issued after 08/04/1991. This information is provided in good faith and no responsibility is accepted for any errors or omissions. A person obtaining information through this handout is not exempted from any requirement that may be part of the documents mentioned above, if this requirement is found not to be clearly explained or omitted from this handout. All dimensions are in millimetres.

DEFINITIONS

Child-resistant door set—comprises a door, door frame, self-closing device and self-latching device that is designed to provide an access way through the intended barrier.

Fence—the assembly of components natural or otherwise, which form the intended barrier to the pool, exclusive of gates or door sets. The fence includes items such as posts and panels, constructed or natural walls, sides of buildings, child-resistant windows, and balustrades on a balcony, where they form part of the intended barrier.

Fencing—a barrier comprising a fence and associated gate or gates, or child-resistant door sets.

Fencing height—the height perpendicular to the finished ground level at any point along the length of the fencing, measured on the outside of the fencing (see Figure 2.1).

Gate—any portion of the fencing other than a child-resistant door set that is designed to provide an access way through the intended barrier.

Inside of the fencing—that side of a fence or gate which faces the pool area.

Outside of the fencing—that side of a fence or gate which faces away from the pool area.

Swimming pool—any excavation or structure containing water to a depth greater than 300mm and used primarily for swimming, wading, paddling, or the like, including a bathing or wading pool, or spa.

Exclusions— temporarily erected children's paddling pool (emptied after each use), domestic spa baths (emptied after each use), dams or other man-made bodies of water not principally used as defined under the definition of a swimming pool such as fountains, ornamental ponds and fish ponds.

Young child — a child under the age of five years.

EXEMPTIONS

If the building work falls into the category of repair, reconstruct or renew any part of an existing swimming pool safety barrier/fence you would 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 purposes only;
- Similar materials 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 the repair, reconstruction or renewal work would not alter compliance with the Regulations. If you are in any doubt, please contact Darebin Building Services Unit on 8470 8899.

USE A REGISTERED BUILDING PRACTITIONER

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.

FINES

The Building Regulations 2006 prescribe a fine of up to $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 are responsible for enforcing the Regulations and can issue a $200 on the spot fine for certain breaches. The Building Act 1993 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 or maintain self-closing or self-latching devices. Furthermore, it is an offence to prop open any gate or door that provides access to a swimming pool or spa area.

THIS INFORMATION IS PROVIDED AS A GUIDE TO PROCESS BUILDING APPLICATIONS

For further information contact Council's Building Services Unit on Telephone (03) 8470 8899 or online at www.darebin.vic.gov.au/building

Translations

Linea Telefonica Multilingue: 8470 8470
Πολυγλωσσική Τηλεφωνική Γραμμή: 8470 8470
多語種專線: 8470 8470
8470 8470 : رقم الهاتف المتعدد اللغات
Повеќејазична Телефонска Линија на 8470 8470
Đường dây Điện thoại Đa Ngôn Ngữ : 8470 8470