City of Melbourne

Swimming Pool and Spa Safety Barriers

The most common cause of death for children under five years of age is drowning. Last year, 35 children drowned in Australia's backyard pools, spas and dams.

Understanding the law

To improve child safety, the State Government introduced amendments to pool safety regulations on 21 December 2001.

Important! These changes now require the landowners AS WELL AS tenants and visitors to a pool to be responsible in meeting the safety requirements.

All pools or spas should now have barriers. If you are the owner of a property with a pool or spa with no barrier or inadequate barriers it is your responsibility to immediately meet the requirements of the regulations.

Note: You will require a **building permit** to construct new pool fencing or to demolish/remove old pool fencing.

What is a 'swimming pool'?

The Building Code of Australia 1996 defines a **swimming pool** as any excavation or structure containing water over 300mm in depth and used primarily for swimming, wading, paddling or the like. It includes above ground pools, bathing or wading pools, hot tubs, jacuzzis, spas, and indoor pools.

A dam or tank on a rural property; a watercourse, such as streams or rivers; and ornamental ponds (birdbaths and fishponds) or fountains are not considered 'swimming pools'. Paddling pools and domestic spa baths (which are emptied after each use) are also excluded.

What are safety barriers?

A safety barrier protects the area containing a pool or spa. 'Safety barrier' refers to a fence, wall, gate or screen, and includes doors, gates, windows, locks, latches and hinges attached to them.

Swimming pools and spas are required to have safety barriers installed that comply with the Australian Standard AS 1926.1– 1993 *Fencing for Swimming Pools* and AS 1926.2 – 1995 *Location of Fencing for Private Swimming Pools* and or regulation 5.13 of the Building Regulations 1994.

Your responsibility

The Building Code of Australia 1996 and the Building Regulations 1994 now require:

1. all swimming pools in private residences in Victoria MUST be provided with safety barriers to restrict access by children under five years of age; and
2. all gates and doors providing access to a pool or spa MUST be fitted with **self-closing and self-latching devices.**

IMPORTANT! Pool owners whose pools are fitted with previously approved barriers may find the barriers no longer comply.

3. Commercial type buildings (built after 1 August 1997), such as motels, flats and units must be provided with Safety barriers to restrict acess by young children to the immediate pool surrounds in accordance with AS 1926.1 and AS 1926.2. Refer to Swimming Pools and Spas constructed on or after 8 April 1991 for requirements.

Council's responsibility

Council is committed to swimming pool and spa safety to prevent the loss of young lives. We administer the Building Act 1993, Building Regulations 1994, Building Code of Australia 1996 and local laws to ensure safe construction of buildings or building works. We enforce the building regulations in the City of Melbourne.

We are responsible for maintaining a safe and liveable building environment. We provide property information and building permit services that meet customer needs and conform to legislative requirements and also help developers, builders and property owners to meet the requirements of the building regulations.

How to comply?

Swimming pools and spas constructed BEFORE 8 April 1991

If your swimming pool or spa was constructed BEFORE 8 April 1991 OR you obtained building approval to construct it before this date you must comply with the following safety barrier requirements;

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, the swimming pool safety barriers must comply with regulation 5.13 of the *Building Regulations 1994*.

A wall of a building satisfies the definition of a *safety barrier* if:-

a. any door in the wall entering the pool area is fitted with a self-locking or self-latching device located at least 1.5m above the internal floor level and a door closure; and

b. the openable part of any window in the wall:

   (i) is not less than 2.4m above the ground or paving immediately external to the window; or

   (ii) is not less than 1.5m above the floor of the room containing the window; or

   (ii) has a catch , bolt or lock located not less than 1.5m above that floor level; or

   (iv) has securely fitted fly screen.

Fences and gates complying with AS 1926.1-1993 Fencing for Swimming Pools also satisfies the definition of a safety barrier. Alternatively a paling or an imperforate 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 1.5m above the ground level.

(If a boundary fence is to be incorporated as a safety barrier, the adjoining owners must consent to any alterations.)

All doors and gate regardless of when the swimming pool or spa was built, must now be fitted with a **self-locking and self-latching device** that allows access into the pool area containing swimming pool or spa must now be fitted with a device:

   (i) that is located not less than 1·5m above the ground or the internal floor level (as the case may be), measured from the approach side; and

   (ii) 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 above applies regardless of the level of compliance before the amendment to the legislation EVEN in cases where a Council or other adviser has agreed that the barriers complied.

Swimming pools and spas constructed ON or AFTER 8 April 1991

Swimming pools or spas constructed ON or AFTER 8 April 1991 must comply with the requirements of the Building Code of Australia 1996.

In other words if a building approval (i.e. a building permit) was issued on or after 8 April 1991 the swimming pool must comply with the Australian Standard 1926 Parts 1 & 2, which states:

1. Swimming pool or spa safety fencing should 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, handholds, footholds in the fence, and the operation of self-closing and latching gates must be taken into account.
2. Gates must swing outwards from the 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.

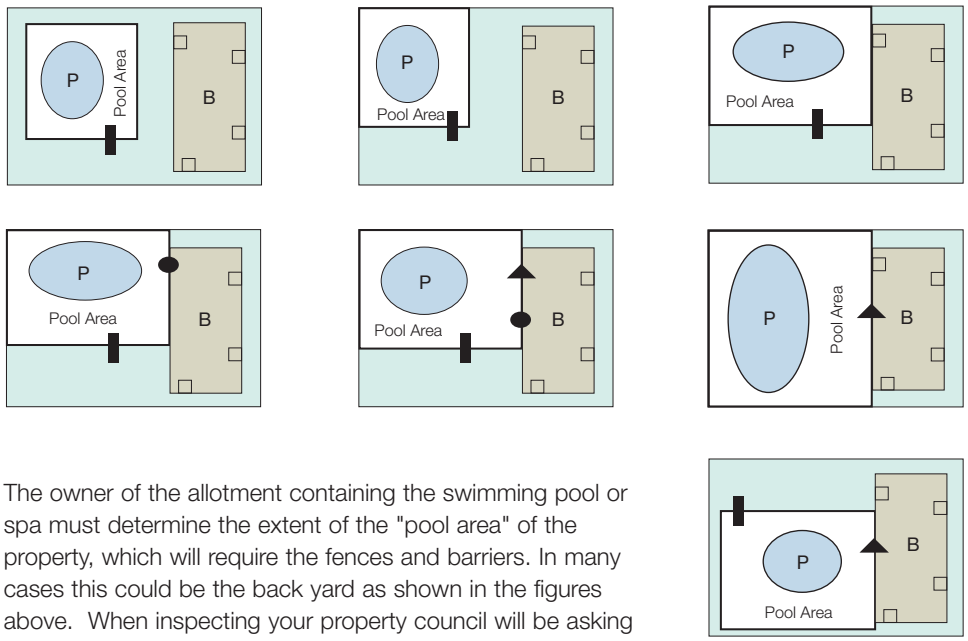
Fences and gates complying with AS 1926.1-1993 Fencing for Swimming Pools satisfies the requirements of the Building Code of Australia 1996 as a safety barrier.

In all cases relating to the pool and spa safety barrier, even if you are renewing the pool or spa safety fence, barrier and safety equipment you need a building permit before you begin the work.

Location of safety barriers

The options for the location of safety barriers are shown below.

Typical Examples of Safety Barriers & 'Pool Area'

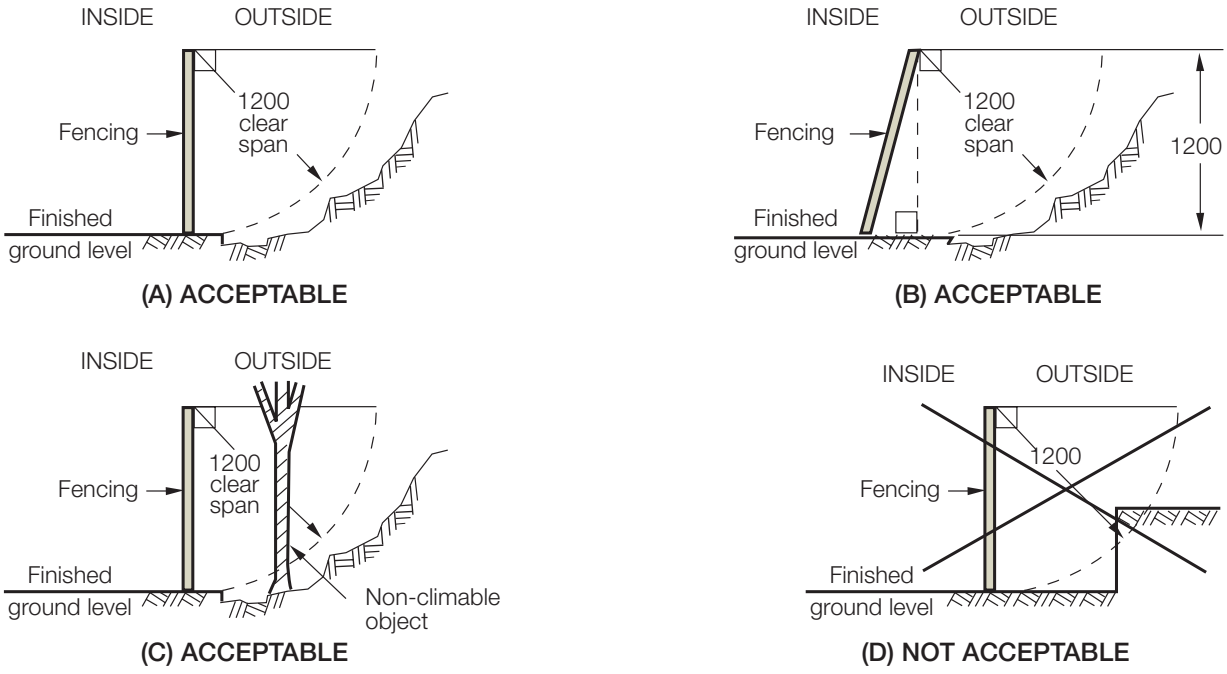


The owner of the allotment containing the swimming pool or spa must determine the extent of the "pool area" of the property, which will require the fences and barriers. In many cases this could be the back yard as shown in the figures above. When inspecting your property council will be asking you to document the extent of the 'pool area'.

Types of fences

Figure 2.1

Effective fencing height, the location of the fence must ensure that nearby objects or projections do not reduce the effect of the fencing height. See Figure 2.4(B) for a further example of effective fencing height on sloping ground.



All measurements and dimensions in millimeters meet the minimum regulatory requirements.

Figure 2.2 Chain wire or Mesh fence
Cranked chain wire or mesh fencing materials having aperatures greater than 13 mm but less than 100 mm, or the fence is to be not less than 2.4m in effective height.

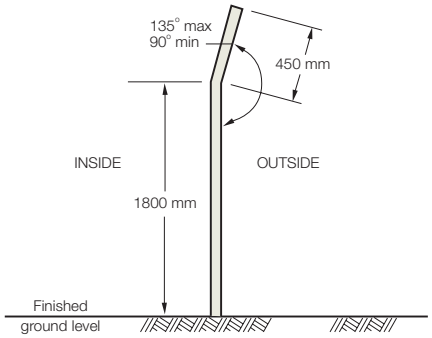


Figure 2.3 Retaining Walls
Retaining wall or other such barrier

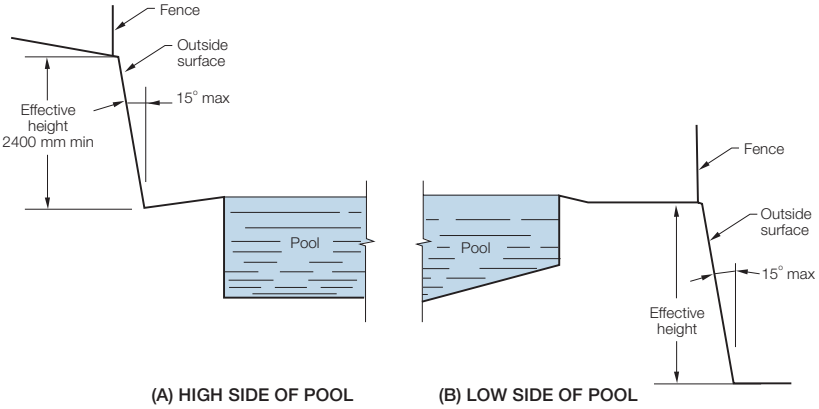


Figure 2.4 Typical brick, block wall, picket and steel fencing
Spacing of accessible horizontal members or projections or indentations

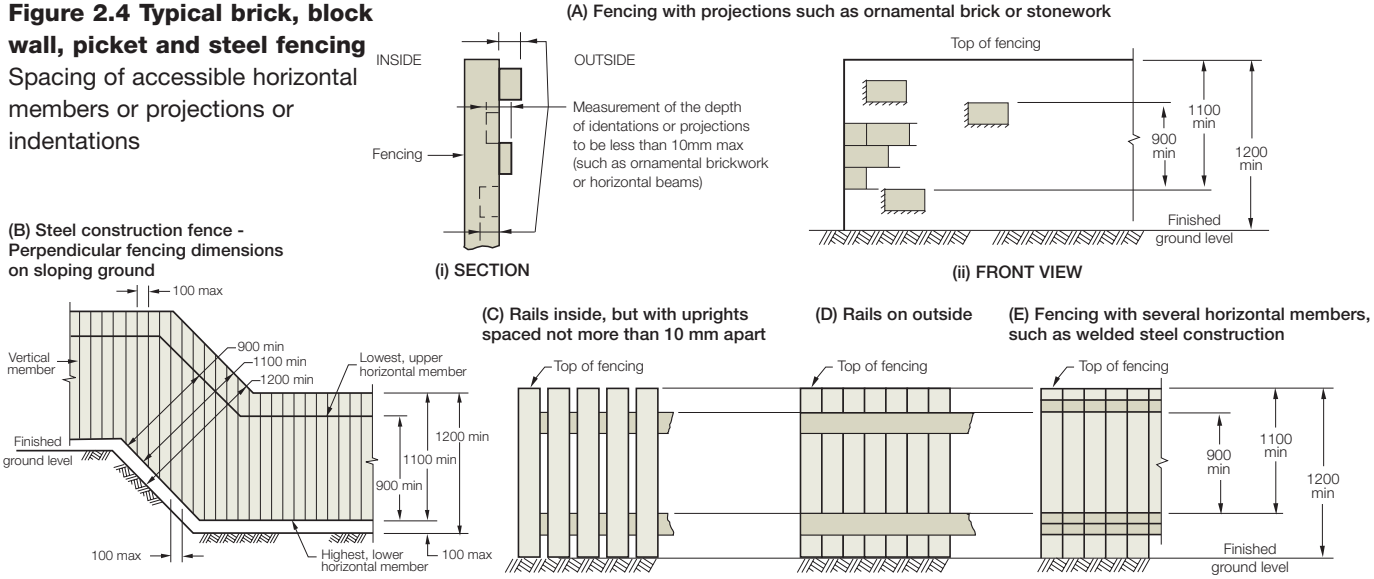
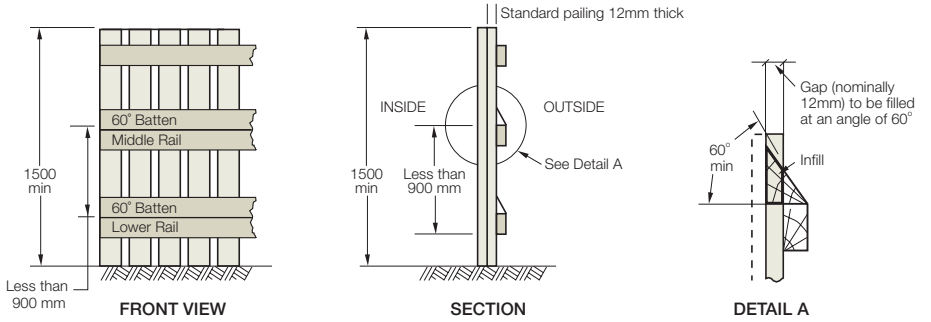


Figure 2.5 Typical Pailing Fence
Fence with horizontal members, projections or indentations not acting as a hold for climbing

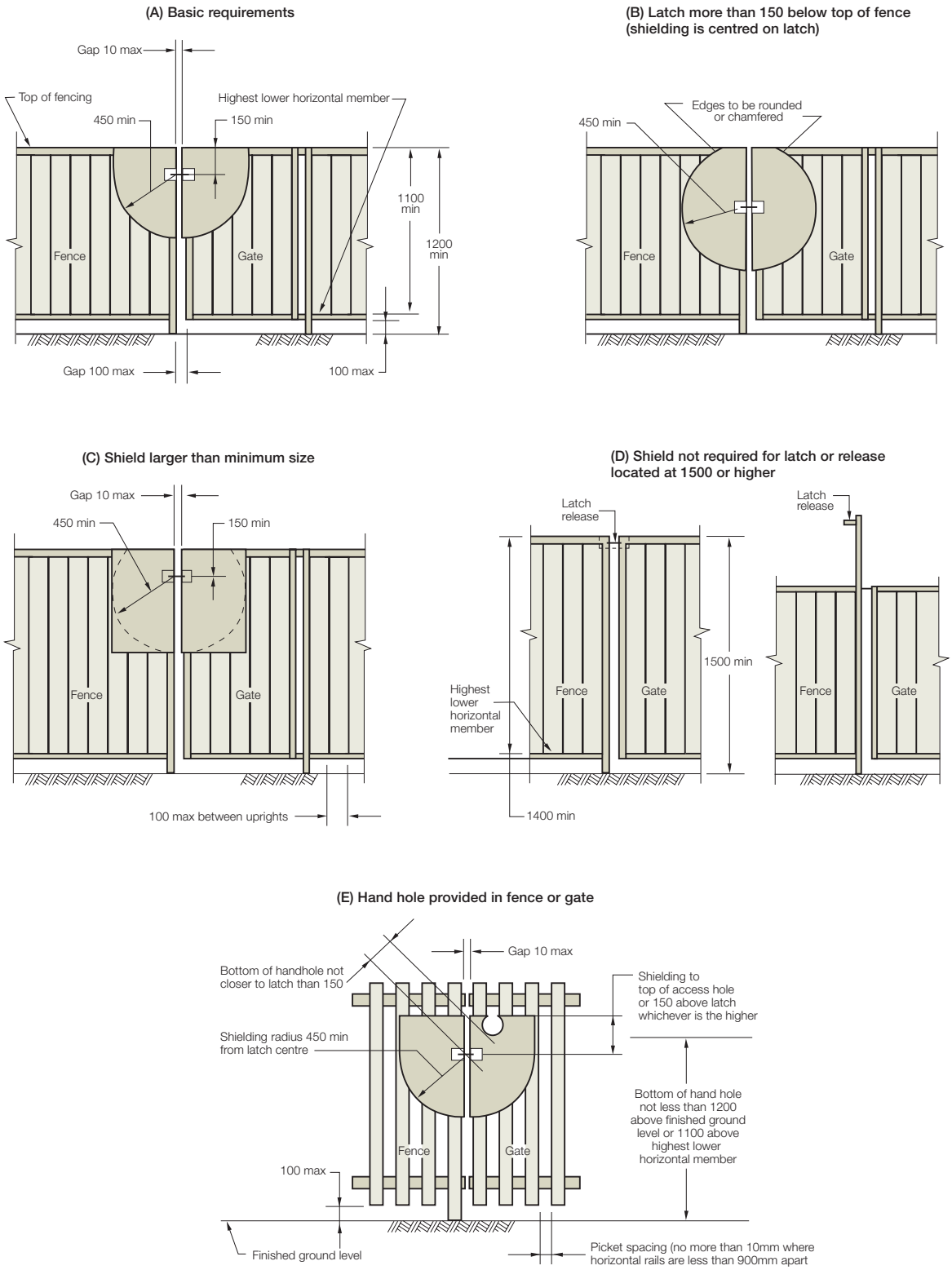


An existing paling fence must be in sound condition and not have loose, cupped or rotted palings or rusted fixing nails as the paling fence must be capable of sustaining a force that can be reasonably expected to be applied in any direction without breaking or dislodging of palings.

As detailed in figure 2.5 of (detail A) it is not always possible, in practical terms, to fit a 60° batten to the top of the rails as this will not fit flush against all palings and therefore will still provide a hand hold or foot hold at each alternate paling (figure 2.5 detail A, requires no more than a 10mm gap, where as most standard palings are 12mm thick). Other options are to nail new palings on the approach side of the fence to a height of at least 1.2m, or consider construction of a new paling fence with palings on the approach side, or extend the height of the fence to 2.4m in effective height.

Otherwise, where the fence is less than 2.4m and climable railings remain on the approach side, compliance with Australian Standard 1926.1 is essential.

Figure 2.6 Typical Latch shielding for gates of open construction
Typical Latch shielding for gates of open construction

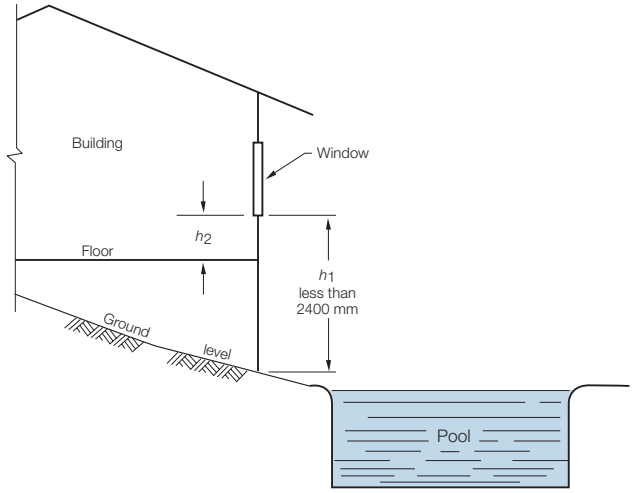


All measurements and dimensions in millimeters meet the minimum regulatory requirements.

Windows and Doors

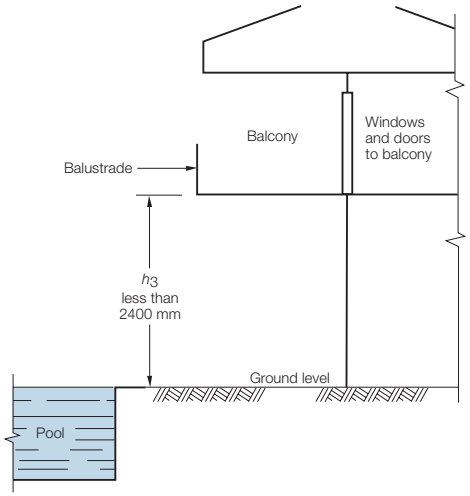
Windows and doors are deemed to be acceptable if they comply with the heights as indicated in Figures 2.7 and 2.8 below.

Figure 2.7
Height limitations on child-resistant windows



Where h_1 is less than 2400mm from ground level, h_2 is to be greater than 1200mm from the internal floor level. If this is not met, the window is to have a child resistant latch or cover.

Figure 2.8
Balcony projecting into pool area



Where the distance h_3 from the floor of the balcony is less than 2400mm, the balustrade must comply as a fence in Australian Standard AS 1926.1-1993.

Maintenance

By law, the landowners, occupiers and visitors must maintain **all pool and spa barriers** regardless of when they were constructed. Barriers must operate effectively at all times and any gate or door is to be in it's closed position at all times, except when a person or another person is in the act of entering or leaving.
It is recommended that you assess areas surrounding the pool, and on both sides of any fence, for any potential hazards or climbable objects.

A simple **safety checklist** may include:

- The pool fence gate is self-closing and self-locking.
- All existing components of the barrier (for example, hinges, self-closers, flyscreens and so on) are fitted and functioning as intended.
- No objects (including plants) are located near enough to a barrier that they could reduce the barrier's effectiveness (for example, tree branches within a 1.2m radius of the safety barrier). Check adjoining allotments.
- The timber fences are in good repair (that is, not rotting or in disrepair).
- No doors or gates to the pool area are left open.

Penalties for non-compliance

Failure to comply with the requirements for swimming pool and spa safety barriers may result in an on-the-spot fine of $200 or up to $5000 through the court process.

Remember, the landowners AS WELL AS tenants and visitors to a pool are now responsible to meet the requirements.

Advice and assistance

Council's building inspectors are available to provide advice to swimming pool and spa owners on compliance requirements.

For more information, please contact Council's Building Control Group on 9658 9658.

Acknowledgements
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AS 1926 Part 1 & 2

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