



# Rules for Pools

GUIDELINES FOR THE INTERPRETATION OF SWIMMING POOL FENCING REQUIREMENTS.



# Minister's Foreword



The death or serious injury of even one young child as a result of immersion in a residential swimming pool is held by the community to be unacceptable and Australian drowning rates of young children are some of the worst in the world. Yet despite this, statistics show that drowning in swimming pools is the single largest cause of injury deaths in children aged five and under.



Having a pool is not just a right. It is a responsibility, and one that needs to be taken very seriously in order to reduce the fatalities while continuing to learn valuable recreation and life skills.

Ready access to aquatic venues provides an avenue for the community to acquire and practice water safety and swimming skills. Statistics show a correlation between poor access and higher aquatic injury rates. Swimming pools are excellent training grounds. The controlled nature of the environment enhances the acquisition of swimming and water safety skills.

The Western Australian Government is fully committed to ensuring pools are a safe place for fun and relaxation and to achieve this, we are asking everyone to be responsible about ensuring their swimming pool enclosure is compliant with current legislation.

The number of children that continue to drown in backyard swimming pools remains unacceptable and pools that do not have any barrier restrictions from or between the house and pool are still the major site for death of a young child.

An amendment to the Building Regulations in March 2002 introduced a 'Transitional Period'. This ends on December 17, 2006 and requires all swimming or spa pools, approved for building prior to July 1 1992, to install a barrier between the residence and pool/spa. This can be a dedicated pool fence or you may choose to modify the doors and windows to provide access restrictions from the residence to the pool/spa enclosure.

October 2005

Any additional cost of these upgrades is a small price to pay for a child's life.

These guidelines are designed to assist residential swimming pool owners, pool contractors, fencing suppliers and installers understand the requirements, by helping interpret the statutory requirements and standards that apply to the fencing of residential swimming pools.

It has been produced with the assistance of the Royal Life Saving Society Australia and its Keep Watch program to assist any person with responsibility for the design, installation and maintenance of swimming pool barriers to have knowledge of and understand the minimum requirements for the design, placement and maintenance of the barrier.

**Francis Logan MLA**  
**Minister for Housing and Works; Heritage;**  
**Minister Assisting in Planning and Infrastructure**

# Index

## Section 1

### Introduction

Page 4

- Why have Legislation for Private Swimming Pools?
- Factors relating to accidental drowning

Page 6

- What are a pool owners Statutory obligations?
- What are the obligations of Local Government?
- What are the penalties for Non-compliance?

## Section 2

### Keep Watch Program

Page 7

## Section 3

### Western Australian Swimming Pool Regulations

Page 8

- Post November 5, 2001

Page 9

- Pre-November 4 2001 – Post July 1 1992
- Pre-June 30 1992 – Post July 28 1989
- Pre July 27 1989
- Transitional Period

## Section 4

### Minimum Requirements for Barrier Locations

Page 10

## Section 5

### Barrier Design, Construction and Installation Requirements

Page 12

## Section 6

### Other Useful Information

Page 20

- Frequently Asked Questions

Page 23

- Key organisational contacts

# Section 1



## Introduction

### Why have Legislation for Private Swimming Pools?

Drowning is the leading cause of injury and death in children aged 0-5 age.

Every week one child under five years of age drowns in Australia. For every drowning it is estimated that approximately six children are admitted to hospital as a result of an immersion incident. In Australia this equates to 360 'near drowned' children each year. For children aged 0 - 5, domestic swimming pools are the most common site in which drowning occurs. It is estimated that Australia wide 97% of young children who drowned in a domestic swimming pool were residents or an invited guest, of a relative or friend.

These incidents can be significantly reduced by all of us becoming aware of the potential hazards of water in our everyday life, using simple methods to prevent such incidents and by learning the life saving skill of resuscitation.

To minimise this tragedy the major strategy adopted by all State and Territory Governments is to install an effective barrier between your child and a pool whether this be a swimming or spa pool. When designed, installed and maintained correctly this barrier will continually restrict the opportunity for a young child to unintentionally enter the water.

Legislation introduced by the Western Australian Government in 1991 requires all swimming and spa pool barriers to be periodically inspected for compliance to the pool fencing Regulations. This activity has been instrumental in reducing toddler deaths despite pool and spa numbers increasing since the Legislation was introduced.

Despite the pool fencing laws, young children continue to drown in swimming pools even though a barrier may have been installed. However, most of these drownings occur in pools that have no barrier between the residence and pool or the barrier is defective.

The functionality and ongoing maintenance of the barrier, at all times, is a crucial link in the prevention of these unnecessary deaths.

### Factors relating to accidental drowning

The Royal Life Saving Society Australia has identified through the Keep Watch program and associated research a number of causation factors.

#### Factors related to Parents/Carers

- Absence or poor supervision
- Parental 'vulnerable period' such as when family routine is broken (i.e. parents acutely ill, visitors call, domestic duties)
- Underestimating the young child's capacity to gain access to areas where parental supervision is necessary
- Unrealistic expectations of young children's behaviour and self control
- False sense of security when each parent or carer mistakenly assumes that the other is supervising the young child
- False belief that the pool safety devices such as retractable ladders and lockable covers or an inadequate barrier will provide adequate protection
- False belief that the presence of several or older children reduces the threat of drowning. Other children may not appreciate a child is in danger and simply assume they are 'playing'.

## Section 1 *cont'd*



### Factors relating to the Child

- Young Children have limited strength, judgement and physical coordination.
- Young children are attracted to water.
- A young child is not able to understand the concept of danger and therefore may have difficulty in understanding that water can cause harm.
- An active intensely curious child does not understand the consequences of falling into the water.
- Infants and toddlers generally are not coordinated well enough to swim and breath at the same time.
- Very young children are susceptible to drowning because they are top heavy. A young child leaning forward to look into the water or reach for an object easily topples over and drowns even in a few inches of water.
- Child drowning is silent and coughs or splashing may not even be heard.
- Children may disobey parent/carer instructions.

### Factors relating to the swimming or spa pool

- Absence of a barrier between the residence and pool/spa
- Ineffective gates or doors
- Ineffective placement or design of barrier
- Tempting objects floating in the water

### Legislation in Western Australia

The following documents operate together to stipulate the requirements for swimming pool and spa barriers:

- Local Government (Miscellaneous Provisions) Act 1960 (the "Act")
- Building Regulations 1989 (the "Regulations")
- Australian Standard 1926.1 – 1993; Fencing for Swimming Pools (the "Standard")

### Swimming pools covered by the legislation

The Act and Regulations apply to all private swimming or spa pools and generally requires that a barrier enclose such pools to limit the opportunity for unsupervised access by young children.

If the structure contains water to a depth greater than 300mm and is meant for swimming, wading, bathing or like activities then the structure is required to have a barrier installed.

A portable wading pool that is capable of being filled with water to a depth of no more than 300mm does not need to have a barrier. However, parents and carers need to be aware that although these types of pools do not require a mandatory child safety barrier, they are still a constant source of danger to young children.

# Section 1 *cont'd*



## **What are a pool owner's statutory obligations?**

Legislation in Western Australia requires the owner or occupier of a property with a private swimming or spa pool to install barriers around the structure for the protection of young children who may enter that area with or without the knowledge or consent of the owner/occupier.

Owners or occupiers are required to maintain the barrier in such a condition that it functions at all times.

## **What are the obligations of a Local Government?**

Persons installing a swimming or spa pool structure are required to apply and receive approval for the installation, through Local Government. The approval process not only ensures that any structural requirements are satisfied but also ensures that the structure is registered with the Local Government so periodic inspections of the installed barrier can occur. The Act requires Local Governments to inspect the barrier for compliance to Regulations and Standards at least once every 4 years.

## **What are the penalties for non-compliance?**

Under the Act and Regulations adopted in Western Australia penalties have been provided for non-compliance and range from infringements issued by Local Government to Court imposed penalties if:

- An appropriate barrier is not installed; or
- Under inspection parts of the barrier are found not to comply.

## **Penalties**

- Upon inspection a Local Government may impose a penalty of \$100 without first issuing a defect/compliance notice.
- Upon inspection a Local Government may impose a penalty of \$200 if a defect/compliance notice has been issued to the occupier.
- A pool owner/occupier who fails to comply with a defects/compliance notice risks the commencement of legal proceedings, a maximum penalty of \$5,000 and penalty of \$250 for each day until the barrier is again deemed to comply.

# Section 2



## Keep Watch

The installation of a barrier between the pool and premises restricts the opportunity for young children to gain unsupervised access into the pool area. However, it has been recognised by the Royal Life Saving Society Australia that the installation alone of swimming pool barriers will not prevent children from gaining unintended access to the swimming pool. A compliant and functional barrier will restrict unsupervised access.

In recognition of this the Royal Life Saving Society Australia developed the national behavioural change program “Keep Watch”. This program promotes four strategies that owners are encouraged to adopt to ensure their’s or visiting children remain safe.

The four strategies are:

1. Supervise your Child
2. Put a barrier around the pool
3. Familiarise your child with water
4. Learn resuscitation

This program is supported by the Department of Health Western Australia and for further information regarding the “Keep Watch” program visit [www.keepwatch.com.au](http://www.keepwatch.com.au)



# Section 3



## Western Australian Swimming Pool Regulations

The Local Government (Miscellaneous Provisions) Act 1960 and Building Regulations 1989 set out the provisions and requirements for swimming and spa pools in relation to the need to install a barrier and the minimum location requirements.

### Applicable Regulations

The type of barrier, its design and location are all dependent on when the swimming or spa pool was issued with a Building Licence from the Local Government.

Barriers may consist of any fence, wall or gate as long as each part complies with relevant requirements of AS 1926.1–1993; Fencing for swimming pools.

When building a new pool or spa it is important for owners to consider how they are going to comply with the minimum requirements of the Building Regulations and AS 1926.1–1993. It is recommended that these considerations be addressed prior to agreement with a pool construction or fencing supply company. This will ensure the initial needs and costs of barrier restrictions are fully explored and understood and long term maintenance and compliance issues can be identified.

The minimum barrier required is dependant on what Regulations were in effect at the time Local Government granted approval for installation of the structure.

The range of dates below describes the minimum barrier location requirements in Western Australia.

### Post November 5 2001

Pools or spas with approvals for building on or after this date must as a minimum;

- (a) Restrict access to the pool or spa by a young child from outside the property through the installation and maintenance of a suitable barrier(s). These barriers may include boundary/dividing fences and gates;
- (b) Install a suitable barrier that separates the pool or spa from the residence that is on the same property, however, the wall of a building may form part of the barrier;
- (c) Not include as part of the barrier any wall that contains a door unless this door is permanently sealed using a device other than a key locking mechanism;
- (d) Ensure that windows that are contained within a wall that forms part of the barrier comply with the requirements of AS 1926.1–1993;
- (e) Ensure that gates that form part of the barrier open away from the pool/spa and are self closing and self latching.

## Section 3 *cont'd*



### **Pre November 4 2001**

Pools or spas with approvals for Building on or within this date range must as a minimum;

- (a) Restrict access to the pool or spa by a young child from outside the property through the installation and maintenance of suitable barrier(s). These barriers include boundary/dividing fences and gates;
- (b) Ensure that any gate used as part of the barrier opens away from the pool and is self closing and self latching;
- (c) Restrict access to the pool or spa by a young child through the provision of a suitable barrier between the residence on the property and the pool/spa;

A barrier installed between the residence and pool/spa may consist of

- i. a fence (or other complying barrier) and gate that complies with AS 1926.1–1993; or
- ii. the doors and windows of any building if they are designed, constructed and maintained in accordance with section 2 of AS 1926.1–1993.

### **Transitional Period**

Based on Coronial drowning statistics, young children are more likely to drown in a swimming pool/spa that does not have barriers installed between the premises, and the pool/spa area.

The majority of properties that have this design were approved prior to June 30 1992.

The Western Australian Government amended the Regulations that apply to all pool/spas with approval for installation on or before June 30 1992. This is to have a positive impact on reducing the number of young children drowning and especially those that occur in a pre-June 30 1992 approved pool/spas.

This amendment ensures a higher standard of barrier is installed and maintained on all properties with pool/spa approved for building prior to June 30 1992.

In order to provide the pool owners with sufficient time to carry out the necessary upgrades, the Government provided a five (5) year Transitional Period. The Transitional Period ends on December 17, 2006 and requires all owners of pre-June 30 1992 installations to upgrade the safety requirements of the barrier so they comply with the barrier requirements of Pre-November 4 2001 pool/spas.

If the property is sold before the Transitional Period expires the new owners have three (3) months from the date of property settlement in which to upgrade. It is not recommended that owners wait until the end of the Transitional Period to make the necessary upgrades as penalties may be incurred if the deadline is not met.

In the mean time, until December 2006 or unless the property is sold earlier, pre-June 30 1992 pools may comply to a lower standard. Refer Section 6, Frequently Asked Questions, for more information.





# Section 4



## Minimum Requirements for Barrier Locations

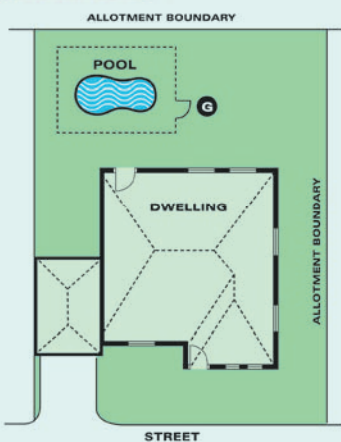
The diagrams below are graphical examples of where the barrier should be located around the swimming or spa pool and according to when the structure was granted approval for construction.

**LEGEND**

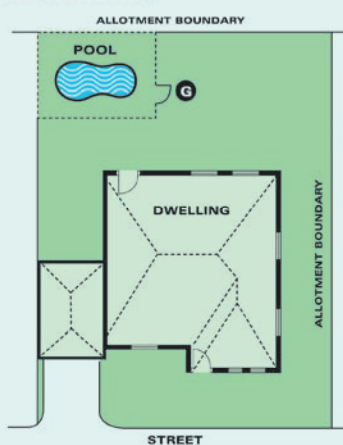
- G** Gate complying with AS 1926.1
- D** Child-resistant doorset complying with AS 1926.1
-  Openable window NOT complying with AS 1926.1
-  Fence, retaining wall or other such barrier complying with AS 1926.1
-  Allotment boundary
-  Wall of dwelling with no openings
- W** Child-resistant openable window complying with AS 1926.1

### Post November 5 2001

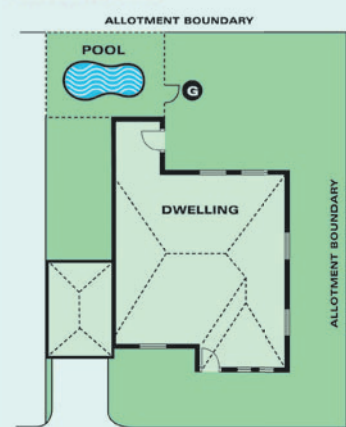
**EXAMPLE 1**



**EXAMPLE 2**



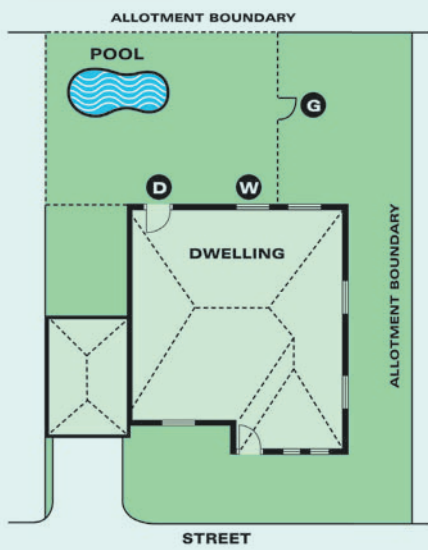
**EXAMPLE 3**



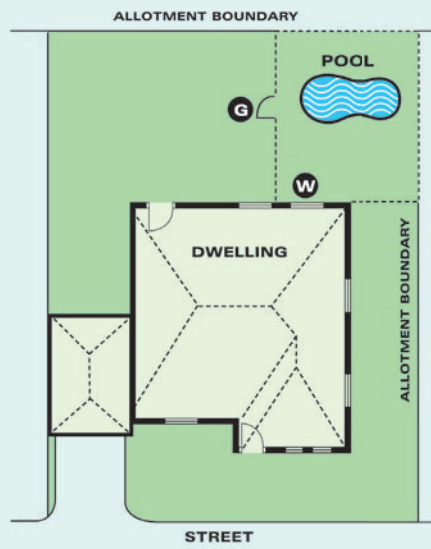


Pre November 4 2001 – Post July 1 1992

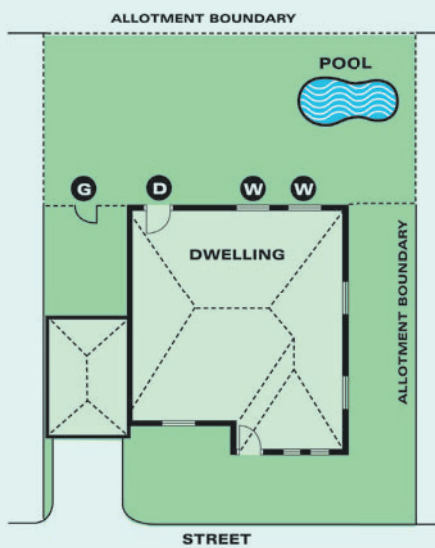
**EXAMPLE 4**



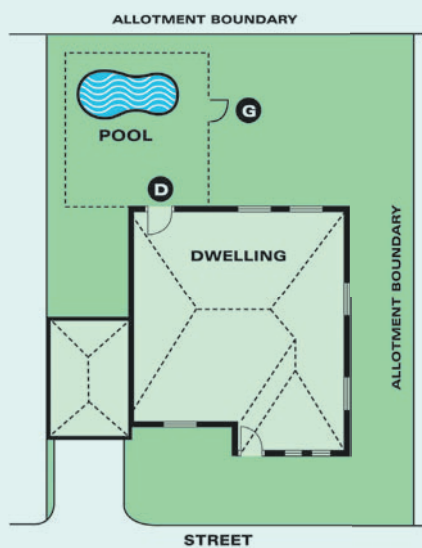
**EXAMPLE 5**



**EXAMPLE 6**



**EXAMPLE 7**



# Section 5



Section 5 has been designed to describe Australian Standard 1926.1-1993 - *Fencing for Swimming Pools* so that owners of swimming and spa pools have access to the design criteria for swimming pool barriers. This information is important when designing a new pool or parts of the barrier design is to change substantially.

It is important to be aware that AS 1926.1-1993 does not provide for tolerance levels within the design standards and all dimensions provided are absolute.

## Barrier Design and Construction

Barriers are intended to restrict the movement of young children into the swimming or spa pool enclosure when adult supervision is not provided. The design and construction of barriers must be such that they comply with the requirements of Australian Standard 1926.1-1993 – *Fencing for swimming pools*. Legislation in Western Australia requires that the installed barriers are maintained in compliance with the Australian Standard at all times, and upon Local Government inspection if the barrier does not meet the Standard infringements may be issued.

The following information describes how the barrier must be designed, constructed and then maintained.

### Types of Materials

The barrier may be made of any materials providing they are of a durable nature and the components that make up the barrier when finished comply with the requirements contained within AS 1926.1-1993, in particular strength and rigidity of openings.

## Barrier Height

All parts of a barrier must have an effective height not less than 1200mm from the top of the barrier to the finished ground surface (Diagram 1).

This is measured on the outside of pool/spa enclosure. Where the barrier is braced by horizontal members the highest of the low members must be at least 1100mm from the top of the barrier.

Barriers must be designed to be near vertical and where this cannot be achieved, they must not lean towards the swimming pool or spa pool by more than 15° from vertical.

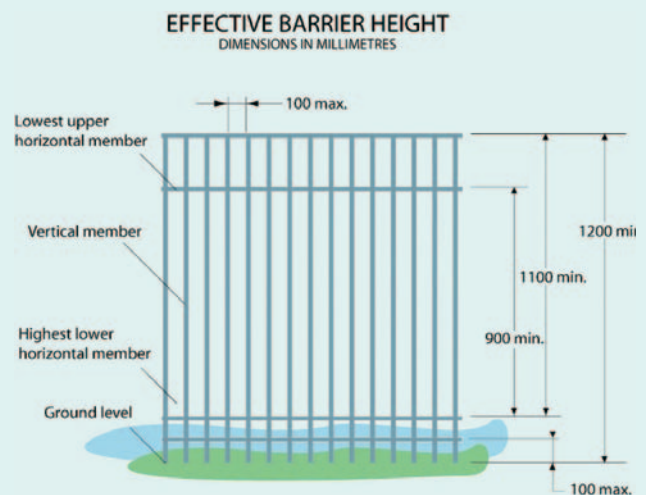


Diagram 1

## Section 5 *cont'd*



### Perforated Materials or Mesh

Any barrier that uses a material made of mesh (rather than vertical uprights or solid infill panels) and has holes, cracks or gaps that exceed 13mm, must have a barrier height not less than 2400mm from the finished ground surface.

Where a crank is provided on top of the fence (common for cyclone wire fencing) an effective vertical height of 1800mm up to the crank must be observed.

This type of fence must include a strainer wire or rail at the top and bottom of the vertical section of the fence.

### Climbable Objects

To maintain compliance of the barrier and an effective minimum height of 1200mm the following conditions must be observed on the inside and outside of the barrier;

#### *i. Outside Fence*

When measured from the top of the barrier no objects that may create a foothold for young children to climb over, can be within 1200mm of the barrier. (Diagram 2).

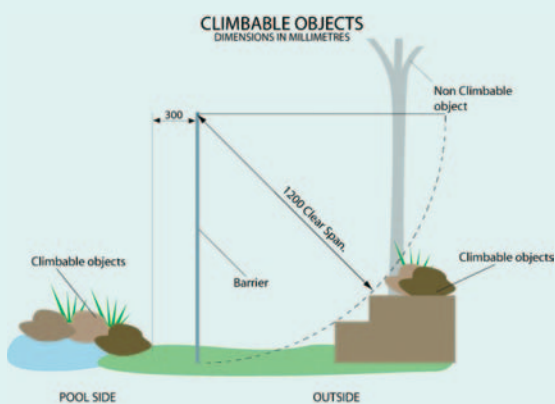


Diagram 2 - Minimum clearance outside/inside of barrier.

Objects like BBQs, garden retaining walls, garden furniture, water features/ornaments, and trees/shrubs can provide footholds.

### Boundary/Dividing Fence-lines

Where boundary/dividing fences are used to form part of the barrier, the effective height of 1200mm should be maintained on the outside of the barrier. It is common for boundary/dividing fence lines to have objects positioned against them on the remote side (non-pool side) that would be considered climbable; however, in these cases it is very difficult for the pool/spa owner to have any influence over the what a neighbour does within the confines of their property that may impact on the compliance of the barrier.

This situation has been recognised by the State Government and where a climbable object is measured within 1200mm on the remote side of the boundary/dividing fence, the barrier will still comply if a clear span of 1200mm is maintained on the pool side of the barrier.

Pool/Spa owners are encouraged to discuss with neighbours any barrier requirements so that all parties are aware that any modifications they may make to or near to their side of the fence has possible impacts to the compliance of the barrier.

#### *ii. Inside Fence*

For barriers that are designed with vertical openings that exceed 10mm, substantial horizontal surfaces on the inside of the barrier must be located no closer than 300mm (See Diagram 2).

This design requirement is to ensure that horizontal surfaces on the inside of the barrier cannot be used to aid climbing of the barrier.

## Section 5 *cont'd*



### Substantial Horizontal Surface

A substantial horizontal surface is any horizontal or near horizontal surface that is greater than 10mm either in depth or protrusion (ie steps, pot plants, trees/shrubs with low branches, brickwork, render, window sills etc).

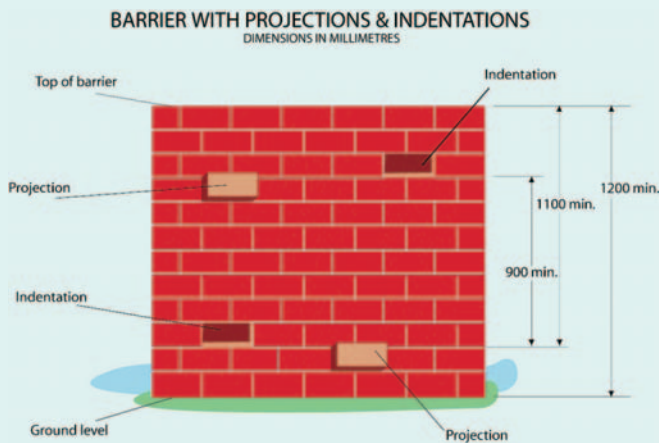


Diagram 3 - Barriers with substantial horizontal surfaces.

Any substantial horizontal surface(s) on the outside of the barrier must be spaced not less than 900mm apart. The highest of the low projection/indentation must be a minimum of 1100mm below the top of the barrier (Diagram 3).

### Horizontal Members

If the barrier has been designed so that:

- horizontal members brace the barrier (ie rails, rods, wires, bracing) on the outside; or
- vertical members have openings greater than 10mm

The following conditions must be maintained;

- The horizontal members will not be less than 900mm apart. Measurements are to be taken from top surface of the highest of the low members to the top surface of the lowest of the high members.

If the barrier or sections of it are on sloping land then these measurements must be maintained when taken perpendicular from the ground.

The top surface of the highest of the low members must be at least 1100mm from the top of the barrier (Diagram 4).

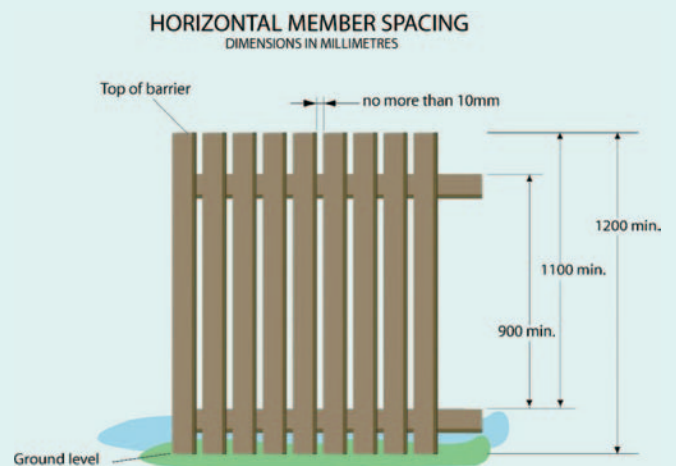


Diagram 4

## Section 5 *cont'd*



### Possible Treatment of Horizontal Surfaces

Where surfaces are horizontal and greater than 10mm, modifications can be made directly to the surface to ensure it is no longer capable of being used to aid climbing.

Modification involves creating a sloped surface so it is greater than 60° from horizontal (Diagram 5). This is sometimes called a fillet. A fillet is a narrow strip such a metal, wood or plastic.

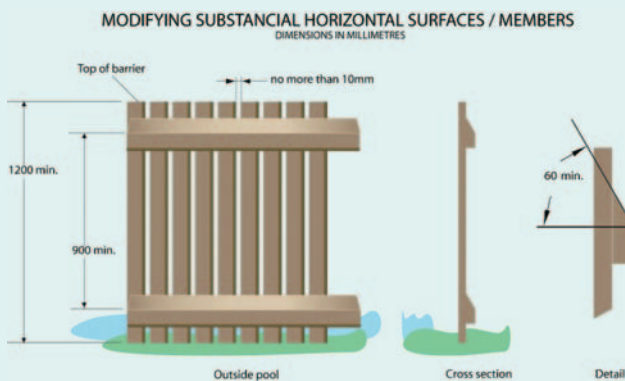


Diagram 5- Horizontal surface treatments

### Vertical Members

Any barrier that is designed with vertical uprights must not have a clear space between them that is greater than 100mm.

### Ground Clearance

The bottom of the pool barrier cannot be more than 100 millimetres from the finished and stabilised ground surface.

### Stabilised Ground Surface

The surface directly beneath the pool barrier must be stable and not able to be eroded by weather, children or animals. Examples of suitable materials include pavers, concrete, wood sleepers, garden rocks/stones, grass etc.

### Retaining Walls

If the swimming or spa pool is located on either side of a retaining wall this wall may form part of a barrier:

#### High Side

On the high side of the pool the retaining wall must not be less than 2400mm to the finished ground surface on the inside of the pool enclosure. The outside surface of the wall must meet design requirements contained in this section.

The retaining wall must not slope away from the pool by more than 15° to the vertical.

#### Low Side

On the low side of the pool the retaining wall must not be less than 1200mm high. The outside surface of the wall must meet design requirements contained in this section unless it is not less than 2400mm in height.

The retaining wall must not slope toward the pool by more than 15° to the vertical.

Where a fence sits atop and intersects a retaining wall, the fence must extend to the outer edge retaining wall and return 900mm along the retaining wall in either direction. The outside surface of the fence must not allow a child to scale along the top surface of the retaining wall and the outside of the fence and then into the pool area. Shielding on the outside of the fence may need to be considered to prevent climbing/scaling.

## Section 5 *cont'd*



### **Gates and Fittings**

#### **Direction of Opening**

Gates must be hung so that they swing away from the pool/spa enclosure.

#### **Automatic Self Closing Device**

All gates must be fitted with a device that will return the gate to the closed position without the use of manual force. The self-closing function must operate from any position that the gate is capable of opening, including when resting on the latch.

To prevent shock, on closing of the gate, and unintended re-opening a cushioned back-checking operation may be required.

When selecting and installing a gate it should be noted that the effectiveness of self-closing devices can be reduced subject to prevailing wind direction and loads. This wind may prevent the gate closing as it moves through its arc of operation. Care should be taken when selecting the gate type and position within the barrier to ensure the wind does not impact on the self closing and latching operations.

#### **Gate Clearance**

The bottom of the gate cannot be more than 100 millimetres from the finished and stabilised ground surface. When installing the gate the need for sufficient clearance to enable it to swing freely through its arc of operation must be considered. It is recommended that all surfaces beneath the gate be hard stand and not grass, as grass can quickly overgrow and reduce the self closing and latching functionality of the gate.

#### **Gate hinges**

Traditional self-closing techniques have been to affix a tension spring to the gate and barrier frame. Hinges are also available that perform the self-closing function. Where hinges are used as a self closing option, care must be taken to ensure when affixed to the gate and frame they do not have surfaces greater than 10mm or are spaced so that the top surfaces are not less than 900mm apart.

When measured from the top surface of the lowest hinge, a height not less than 1100mm to the top gate must be maintained.

#### **Latching Device**

A latching device must be fitted to the gate that will secure the gate closed unassisted. The latching device must not allow the gate to re-open without the proper use of the latch.

When in the closed position, the gate must not have any gaps that exceed 10mm at the latching device. This is to prevent the insertion of an implement by a child that is capable of fitting in between the gap and releasing the latch device. In some cases the point at which the gate latch operates may need to be shielded to prevent opening with the aid of an implement.

#### **Latch Release Mechanism**

The mechanism that releases the latch must be located not less than 1500mm above the finished ground level when measured on the outside of the pool enclosure.

The release mechanism must be not less than 1400mm above the highest of any low horizontal members that may be part of the barrier design (Diagram 6).

## Section 5 *cont'd*

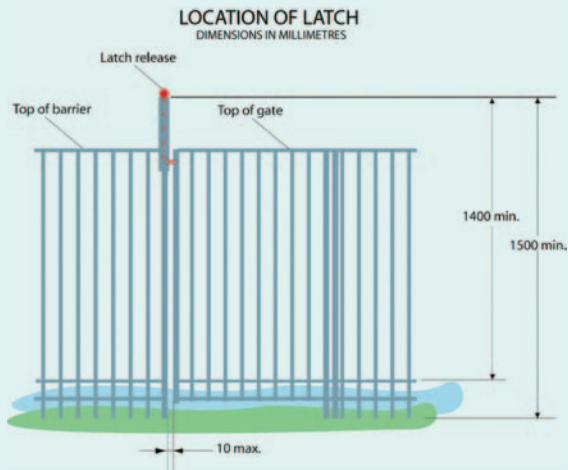


Diagram 6 - Latch height location

In some instances the latching device and release mechanism are the same. Where the release mechanism is not located as described above the gate will still comply if:

- i. The mechanism to release the latch release is on the inside of the pool enclosure;
- ii. The release mechanism is positioned so that to release the latch device would require a young child to reach over or through the gate at a height not less than 1200mm.
- iii. A height not less than 1100mm above the highest of the low horizontal members is maintained (Diagram 7);
- iv. The latch release mechanism is not less than 150mm below the top of the gate or away from the edge of the handhold where one has been installed (Diagram 7 and 8);

### Shielding of Latches for Open Design Gates

Where the gate is designed so that vertical members are spaced more than 10mm apart and the latch release mechanism less than 1500mm above the finished ground level then:

- i. The mechanism that releases the latch device must be shielded to restrict the opening of a gate by a young child by reaching up and through the gate; either by hand or with the aid of an implement.
- ii. The latch and release mechanism must be shielded with material that has an effective radius not less than 450mm when measured out from the latch release mechanism. Within the shielded area no gaps of more than 10mm are permissible (Diagram 7 and 8).

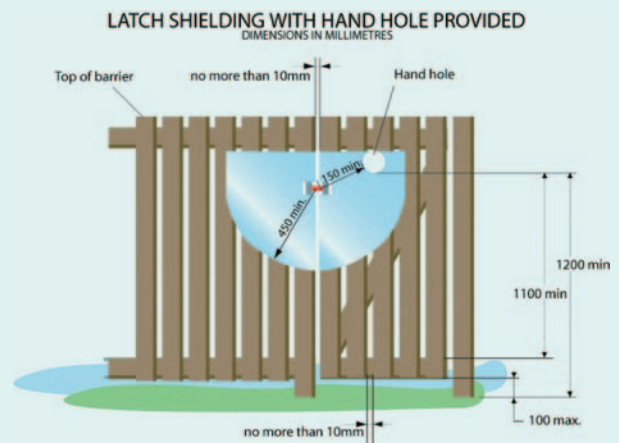


Diagram 7 - Shielding of Latches

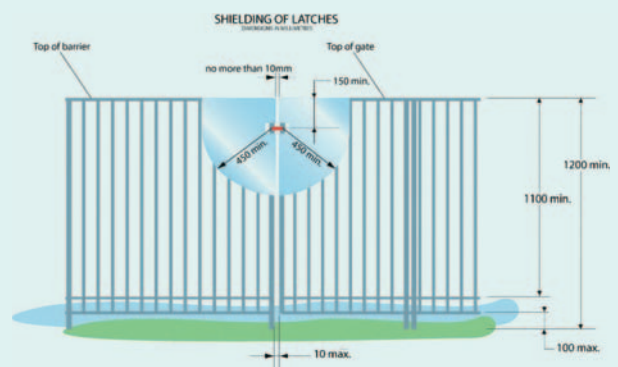
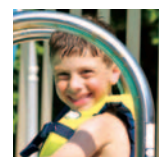


Diagram 8 - Shielding of Latches

## Section 5 *cont'd*



### **Above Ground Pools/Spas**

Above ground pool or spas that have side walls not less than 1200mm from the finished ground surface may not require a barrier to create an enclosure if it is free of:

- bracing with horizontal surfaces,
- substantial horizontal surfaces,
- climbable objects.

Where bracing is required to support the swimming pool and angles out from the pool wall to the finished ground surface, the top surface of the supports must be greater than 60 degrees from the horizontal.

However, features like pool pumps which constitute a climbable object and entry/exit ladders/steps require a barrier with a self closing and self latching gate. Removal of the steps/ladders after each use is not an option for compliance.

Despite this all owners or occupiers with Above Ground swimming or spa pools are recommended to install an appropriate barrier regardless of the design of the walls. Portable and climbable objects in and around the property remain a constant danger.

Lockable Pool/Spa covers are not suitable to meet the requirements of the Legislation.

### **Balcony**

If the height of a balcony is less than 2400mm to the finished ground surface and projects into the inside of a swimming pool or spa enclosure, then either of the following modifications to a balcony access must be made:

- i. The doors and windows that lead directly to the balcony area must meet the requirements as described in this section titled Doors and Windows; or
- ii. If the doors and windows do not comply then a barrier that meets the design and construction requirements as described in this section must be installed and maintained on the balcony.

### **Garage Doors**

Automated garage or perimeter gates do not comply with the requirements of the Legislation. It should not be taken for granted that these can be used as part of the barrier and any consideration to their use should be authorised by the Local Government prior to swimming pool installation.

### **Doors and Windows**

A wall of a building that is used as part of the barrier may contain a door that complies with the Standard, if the swimming or spa pool was given building approval on or before November 4, 2001. All installations regardless of building approval date may have a window that forms part of the barrier as long as it is modified to meet the requirements described in this section.

### **Opening Windows**

If the lowest panel of a window that is capable of opening is less than 2400mm to the finished ground surface when measured from inside the pool enclosure then one of the following options must be completed;

## Section 5 *cont'd*



### *Sill height less than 900mm*

a) If the sill height is less than 900mm above the finished floor surface when measured from the inside the building, the window must have one of the following modifications;

- i. Be covered by bars or mesh screens that are fixed into position with fasteners that require the use of a hand tool to remove (ie Allen key, spanner, or screwdriver). Key locking devices are not acceptable; or
- ii. Be fixed in such a way that the window is not capable of opening more than 100mm. This 100mm clearance applies to windows that open in either a horizontal or vertical plane.

Key locking devices are not acceptable and the stopping device must be permanently fixed.

### *Sill height between 900mm and 1200mm*

b) If the sill height is between 900mm and 1200mm above the floor, the window must either comply with either of the requirements described in a) or be fitted with a securely fixed flyscreen frame that has a screen fixed to it and is in good condition.

The screen fitted to the frame must be either powder coated aluminium or stainless steel. Nylon based flywire is not of acceptable strength.

### *Sill height between 1200mm or greater*

c) Any window that has a finished sill height of 1200mm or greater above the floor does not require treatment.

While option c) does not require a treatment, it is recommended that treatment options as described above in a) or b) are considered. Many objects in a room can provide a young child with a climbable object to breach the 1200mm-window sill and access the pool or spa enclosure through the window.

### **Opening Doors**

Any sliding or hinged door contained in a wall that is part of the barrier must have the following characteristics;

- a) Be fitted with a self-closing device that will automatically return the door to the closed position. It must allow the self-latching device to operate without the application of manual force from any position that the door is capable of opening, including when resting on the latch.
- b) Be fitted with an automated self-latching device that will prevent the door from being re-opened without the application of manual force on the latch release mechanism.
- c) The operating part of the latch release mechanism must not be less than 1500mm above the floor.
- d) Not contain footholds protruding more than 10mm on the door or its frame. This is to restrict the opportunity for a young child using the foothold to climb the door and release the latching device. This must be observed in between the release of the latching device to 100mm above the floor.

Owners and occupiers must remain aware that young children are resourceful and are capable of using a climbable object found within the house to reach up and release the latching mechanism of the door. Great care should be taken not to leave objects lying around that may be attractive to a young child or easy for them to use.

# Section 6



## Frequently Asked Questions

### **Q. Who is responsible for ensuring the pool or spa has a compliant pool barrier?**

- A. For a swimming or spa pool the land owner is responsible for installation of a pool barrier. In the case of an in-ground pool, the pool owner is generally the owner of the land. However, if a person who is renting a property buys a portable pool that requires pool fencing around it, the owner of the portable pool is considered the pool owner and that person must ensure the pool has a fence around it.

### **Q. What are the penalties for not installing or maintaining a barrier for swimming or spa pools?**

- A. Local Government is empowered to issue infringement notices or penalties for non-compliance. It is the responsibility of the owner/occupier to ensure that a compliant barrier is maintained in a functional condition at all times.
- Upon inspection a Local Government may impose a penalty of \$100 without first issuing a defect/compliance notice.
  - Upon inspection a Local Government may impose a penalty of \$200 if a defect/compliance notice has been issued to the occupier.
  - A pool owner/occupier who fails to comply with a defects/compliance notice risks the commencement of legal proceedings, a maximum penalty of \$5,000 and penalty of \$250 for each day until the barrier is again deemed to comply.

### **Q. What makes up a barrier?**

- A. A barrier may consist of any fence, wall, gate, window or door set that complies with the requirements of the Legislation for location and design. This can be purpose built pool fencing, brickwork, limestone, glass, metal, fibro-cement and even brushwood as long as they meet the requirements of AS 1926.1.

### **Q: Do I need a barrier all the way round my pool/spa?**

- A. This depends on when your pool or spa was approved by your Local Government. Please contact your Local Government to determine the date of approval. Your Local Government can also guide you through the requirements.

### **Q. Can I use my boundary/dividing fence-line as part of the barrier?**

- A. Yes. You must ensure that a height not less than 1200mm is maintained on either side of the barrier. As far as practical climbable objects on the neighbouring side (remote) are not to be within 1200mm of the top of the barrier line; however, you may have little influence over what your neighbour does to their side of the barrier. If 1200mm cannot be maintained on the remote side the measurement is to be taken from the inside (pool side).

Where climbable objects are within 1200mm from the top of the inside of the barrier then it is the pool owner's responsibility to ensure that the objects are moved away from the inside of the barrier or the height of the barrier is increased.

Where boundary fences are used as part of the barrier it is recommended that consultation with your affected neighbour occurs to ensure they are aware of the impact any changes to their side may have on the compliance of the barrier. In this case it may not always be practical to use boundary fences as part of the barrier.

## Section 6 *cont'd*



### **Q Can I use a door as part of my barrier?**

A. Only if the pool/spa was given approval for building by the Local Government on or before November 4, 2001. Pools/spas approved after this date may not use a wall of a building that contains a door. Use of key, pad or combination type locks is not acceptable to meet the requirements of the Legislation.

### **Q. If I use a wall of the building as part of the barrier can it contain a window?**

A. Yes. As long as the window is child resistant, in accordance with Australian Standards, it may be contained within a wall that is part of the barrier.

### **Q. If my barrier location permits can I use bi-fold or double leaf type doors?**

A. No. Double leaf may only be used if one side is permanently fixed closed.

### **Q. Under what circumstance can an exemption be granted for use of a door within a barrier that is a post – November 5 2001 approved swimming pool?**

A. Local Governments can provide approval for use of a door opening onto a swimming or spa pool that was given approval for construction on or after November 5 2001. Approval can be given if the door is child resistant and meets the requirements for DOORS within AS 1926.1 – Fencing for swimming pools. Approval of the door will be considered under the following conditions:

- In the opinion of the Local Government to install a barrier between the premises and the pool would create a structural problem that cannot be controlled by the owner or occupier of the property;
- The pool is totally enclosed by a building; or

- In the opinion of the Local Government, a separate barrier between the premises and pool/spa would create a sufficient problem for a person with a disability who is a resident at the premises and wishes to have access to the pool. Prior to making the decision the Local Government will give sufficient weight as to whether a young child resides at the property.

However, it is unlikely that Local Government will approve the use of a door unless it meets all requirements as described in AS 1926.1 and this includes the minimum height requirements for door furniture (latch release mechanism). The individual seeking approval for the use of a door must be a “person with a disability”. This means a person who is able to produce a certificate given by ACROD Limited (Western Australian Division) (ACN 0088445485), certifying that the person has a disability that makes it difficult for the person to use a gate of the kind that would be required by these regulations in a swimming pool fence.

### **Q. Is a key or pad lock suitable to secure gates, doors and windows?**

A. No. The device which secures these parts of a barrier must be removed with the use of a hand tool. This may be Allen keys, pliers, spanners, screw drivers etc.

### **Q. Does my portable wading pool require registration or a barrier?**

A. If the portable wading pool is not more than 300mm deep it does not fit the definition of a swimming pool under the Act. However, these remain a danger to young children if water is not emptied immediately after use or adult supervision is not directly provided when the child is within the area in which the wading pool is situated.

As soon as the depth exceeds 300mm a barrier compliant to the Legislation will need to be installed.

## Section 6 *cont'd*



### **Q. Does my spa pool require a barrier?**

- A. Yes. A spa pool, whether portable or fixed comes under the definition of a 'swimming pool'. Unless the spa pool is totally enclosed by the walls of a building it must be fenced.

### **Q. Does my above ground pool require a barrier?**

- A. Yes. Unless the walls of the pool are not less than 1200mm high and no climbable objects appear on the outside of the pool then a barrier is required. For above ground type pools the filtration, pumps and entry ladders will generally require a barrier and gate even though the height and outside surface of the pool walls may comply.

### **Q: What is my Local Government's role in relation to swimming pool barriers?**

- A. Under the Act the State Government requires your Local Government to enforce barrier legislation applying to private swimming or spa pools. Your Local Government is responsible for ensuring that when a new swimming or spa pool is installed the appropriate barrier is in place prior to being filled with more than 300mm of water.

Local Governments are required to inspect swimming or spa pool barriers for compliance to the Legislation at least once in every 4 year period. This requirement has been in place since 1992. Your Local Government is also responsible for the issuing of infringement notices or commencing legal proceedings if a barrier is found to be non-compliant.

Local Governments can provide help to a new pool owner to select the most appropriate barrier location and design based on the features of the pool/spa prior to its installation.

### **Q. what if I do not upgrade my barrier prior to the expiry of the Transitional Period?**

- A. Immediate upgrade is recommended and penalties may apply for non-compliance to the pre-November 4 2001 standard after December 17, 2006.

However, depending on the age of your swimming or spa pool and only until 17 December 2006 or earlier, if you have recently purchased your property, your barrier may comply with the lower standard.

### **Q. What is the lower standard?**

#### **A. Pre June 30 1992 and Post July 28 1989**

Only until 17 December 2006 or earlier if you have recently purchased your property, pools or spas with approval for Building on or within this date range must as a minimum;

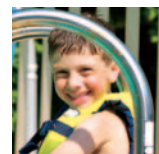
- (a) Restrict access to the pool or spa by a young child from outside the property through the installation and maintenance of suitable barrier. These barriers include boundary/dividing fences and gates;
- (b) Ensure that any gate used as part of the barrier opens away from the pool and is self closing and self latching.

#### **Pre – July 28 1989**

Only until 17 December 2006 or earlier if you have recently purchased your property, pools or spas with approvals for Building on or prior to July 28, 1989 must as a minimum:

- (a) Restrict access to the pool or spa by a young child from outside the property through the installation and maintenance of suitable barrier. Minimally these barriers include boundary/dividing fences and gates;
- (b) The gate may open in any direction; however must be self closing and self latching.

# Key Organisational Contacts



## **Department of Housing and Works Western Australia**

- [www.dhw.wa.gov.au](http://www.dhw.wa.gov.au)

## **Department of Consumer and Employment Protection**

- [www.docep.wa.gov.au](http://www.docep.wa.gov.au)

## **Department of Health Western Australia**

- [www.population.health.wa.gov.au](http://www.population.health.wa.gov.au)

## **Royal Life Saving Society Australia**

- [www.lifesavingwa.com.au](http://www.lifesavingwa.com.au)
- [www.poolsafety.com.au](http://www.poolsafety.com.au)
- [www.keepwatch.com.au](http://www.keepwatch.com.au)
- [www.swimandsurvive.com.au](http://www.swimandsurvive.com.au)

## **Swimming Pool and Spa Association**

- [www.spasawa.com.au](http://www.spasawa.com.au)

## **Kidsafe**

- [www.kidsafe.com.au](http://www.kidsafe.com.au)

## **Standards Australia**

- [www.standards.com.au](http://www.standards.com.au)