

# Swimming Pool Compliance Practitioner Education Series webinar

## Q&A

*The following answers have been provided to questions asked during the Swimming Pool Compliance Practitioner Education Series webinar on 1 December 2022.*

### **Is there a list of VBA rulings that we can access for use during barrier inspections?**

The VBA does not have a list of rulings, however the relevant Regulations, Australian Standards and requirements should be used in determining barrier compliance. The VBA website also provides checklists, which can assist in assessing barrier compliance:

<https://www.vba.vic.gov.au/consumers/swimming-pools/pool-safety-barriers>

### **In regard to 1986 & 1993 standards, what is the boundary fence height required to comply? Boundary fence has been defined under "fencing" and is 1200mm height is the minimum? If so, how do you enforce 1200mm outside (neighbouring property side) clear zone?**

Part 9A division 2 of the Building Regulations sets out the requirements for fences constructed before 8 April 1991. Under 1986 and 1993 standards, boundary fences are not considered to have any different or separate requirements. If the neighbour is causing the boundary fence to be non-compliant then the pool owner can request that the neighbour address the issue. If the neighbour is unwilling to do so, then the issue remains with the pool owner who needs to consider their options such as upgrading the boundary fence to comply with the 2012 standard instead.

### **With regards to a fibreglass pool, are the VBA saying even with a 126 for the structure we still need a performance solution (PS) because it is not a referenced document?**

Where there is not a prescribed standard in the deemed-to-satisfy for a material then a performance solution must be developed to address the relevant performance requirements. As AS-1838 and AS-1839 are not referenced documents in the National Construction Code (NCC), a performance solution is required when these standards are used. However, as mentioned during the presentation, the VBA is working with Master Pool Builders on a Proposal For Change to address the lack of referenced standard in the NCC.



**Is there any consideration by the VBA on a legislative change within the Act that would allow Building Inspectors (Pool Safety) to amend the applicable barrier standard or apply a performance solution? Examples:**

- 1) a boundary fence under AS-2012 could be over 3metres high both sides, but if the NCZ5 is climbable we can't certify it.**
- 2) if an AS1926.1-1993 barrier does not have the 1.2m clear span BUT does have the NCZs and ground clearance (and complies with AS-2012)**

**If not, does the VBA support the practice of applying new compliance options for older barriers?**

The VBA's role is to regulate the building and plumbing industries, whereas the relevant Department is responsible for changes to and adoption of legislation. The VBA regularly consults with industry stakeholders and provides feedback to Government with regard to any amendments or legislative change that may be useful to the industry and will continue to do so.

**It's near impossible to advocate for legislative change as individual. What about these options being incorporated into the next version of the Standards?**

Your industry associations are there to help you advocate for change. These groups have representation on the standards committees and the ABCB and are there to support industry advocate for change. Your local parliamentary member can also be contacted about issues with legislation.

**AS1926.1-1993 requires 1100mm from top of any projection with a depth greater than 10mm. From the top of the bottom gate hinge to the top of the fence must be 1100mm is this correct?**

Yes, as required by the standard. Refer to clause 2.7 and figure 2.5 As1926.1 – 1993.

**What should the pool construction date be? Some Inspectors go by the Building Permit issue date, some Inspectors by the Certificate of Final Inspection issue date.**

The applicable barrier standard based on the construction date is determined by council. The council decides on the construction date and inspectors have no involvement in this decision. If an owner disagrees with the construction date determined by council, then they may appeal to the Building Appeals Board (BAB). Regulation 147T sets out the requirements for determining the date of construction for a swimming pool or spa. Regulation 147U sets out how the date of construction is determined for relocatable swimming pools and spas.



**Self-closing sliding screen door latches can be adjusted during operation with a key and therefore the door will not latch closed. This is covered in AS1926.1-2012 but not in AS1926.1-1993, so if not mentioned in 1993, it is not enforceable?**

Clause 2.1 General of the 1993 standard requires that fencing will present an effective barrier to young children. The standard cannot cover all situations and scenarios therefore the inspector still has to ensure that general requirement under clause 2.1 is met.

As the snib can be easily accidentally engaged when the door is open, it therefore does not meet the general requirement under clause 2.1. To comply, the snib has to be removed in order to satisfy clause 2.1 so that it serves as an effective barrier which cannot be easily accidentally fail to comply.

The key cylinder can remain as that requires an intentional action of turning a key however the key itself can't be kept/stored in the cylinder.

**Could we get some clarification for what is required for an existing boundary fence to be used as part of the pool barrier, with regards to loading requirements. Further to this, why is it considered less critical than the internal barriers if they are part of the pool barrier restricting child access?**

Existing fencing incorporated into the pool safety barrier should meet the same requirements as any new portions of fencing installed. For example, it should also meet the requirements of AS1926.1 and this includes Section 3 Loading requirements. Therefore, it would be appropriate to subject the existing fencing to the applicable tests required by Section 3 on site and recording the results. Existing boundary fences should not be considered less critical than new internal barriers and perform an important function.

**Can a vertical pole with no climbable elements permitted to be within the 900mm non-climbable zone (NCZ)?**

Clause 2.2.1 of AS1926.1 - 2012 sets what is required for non-climbable zones (NCZ). If an item would facilitate climbing it is not permitted within the NCZ. If it would not facilitate climbing than it can be within the NCZ.

**When will owners be required to have loose furniture audited by Building Surveyors or will owners be required to permanently fix furniture to the ground. Are these not easy for young children to use to circumvent all passive controls?**

The VBA has developed Checklists that assists homeowners in maintaining safety of swimming pools barriers and can be found on the VBA website: <https://www.vba.vic.gov.au/consumers/swimming-pools/pool-safety-barriers>.

The National Construction Code only sets out the requirements for the barrier construction and AS1926.1 is scoped to the barrier construction as well. Moveable items are a supervision matter and the responsibility of the home owner/occupant.



**Is there any reason loose furniture is not audited or required to meet the same standards as other passive safety requirements. A Lightweight Aluminium chair is an easy move into the climbable zones for a 4-year old. Why do these fall outside the regulations?**

Moveable items pose a risk and owners have a responsibility to ensure safety around pools the VBA has created checklists to assist homeowners. KidSafe and Lifesaving Victoria/Australia also provide guidance on safety around pools to prevent drowning.

Moveable objects fall into a supervision category. Further, regulation 147G requires the occupier to ensure that a barrier restricting access to swimming pool or spa is operating effectively. This would mean ensuring that non-climbable zones are kept clear. If objects are within the non-climbable zones when inspections are undertaken they should be removed. The research shows that most accidental drownings are a result of a failure of the pool barrier, which has allowed accidental access to the pool area, in particular through the gate. Pool barrier non-compliance is a higher risk and that is why it is heavily legislated.

**Has the Practice Note changed recently for outdoor hygiene spas emptied after each use that they are subject to requiring safety barriers unless they are located inside the dwelling then no safety barrier is required?**

No relevant changes have been made to the Practice Note mentioned.

**Can an inspector apply AS1926.1 2012 for older pools that the council has deemed to require part 9A or AS1926.1 1993 for example?**

No, the inspector must assess the pool in accordance with the applicable barrier standard determined by council.

**Should there be more information for the timber pailing fence on this example?**

Existing fencing incorporated into the pool safety barrier should meet the same requirements as any new portions of fencing installed. For example, it should also meet the requirements of AS1926. This includes Section 3 Loading requirements. Therefore, it would be appropriate to subject the existing fencing to those tests required by Section 3 on site and recording the results.

**Is it acceptable for an above ground spa to have no steps into the spa?**

Whilst the scope of the standard does not deal with whether a pool/spa is required to have steps, Clause 2.9 provides the requirements for a barrier complying with clauses 2.1 and 2.4 around permanently fixed access ladders and around designated access points to above ground pools with removable ladders. Not having a fenced entry point creates the opportunity to gain unsupervised access. It's particularly a risk as removable steps/ladders get left out when not in use.



**Can the VBA host a webinar for assessment of existing swimming pool/barriers that might answer some of the great questions above. Perhaps the opportunity to submit questions prior and the webinar designed around the questions.**

The VBA considers pool barrier safety an important topic and are undertaking a pilot program to audit pool inspectors work. Information used from these audits will be used in future webinars focused on swimming pool barriers. As with all VBA Practitioner Education Series webinars, questions can be submitted in advance to be answered live.

**What is acceptable if a glass barrier does not have a stamp to display if it's AS1288?**

AS1288 sets the marking requirements for glazing. This could be supported by the certification from the glazing manufacturer. Glass can be marked with a removable sticker. Confirmation is difficult however the inspector should inspect the glass to determine whether it is likely to be safety glazing.

**What evidence of testing is acceptable?**

The appendices in AS1926 detail the procedures to be followed and information required to be documented for the test. This should be considered in conjunction with Part A governing requirements of the NCC of what evidence of suitability is required. It is unlikely that a one-line statement would be sufficient as it would not have details of all the required information to validate that the product is suitable.

**Can electric garage doors that do not self-close be used as pool barriers?**

Any gates or doors to the pool area are required to be self-closing. Therefore, if the door is not self-closing it is not permitted. Please refer to AS1926.1-2012 part 2.4 gates, gate units and latch fittings and 2.7 child resistant door sets for more information.

**What about infinity pools? The overflow that sits below the complying wall that is part of the pool shell. Does this need fencing off as it exceeds 300mm?**

Please refer to the definition of swimming pool. It is up to the RBS to determine if it falls into the definition of requiring a barrier. For pool inspectors, we would recommend obtaining the approved building permit documentation to ensure that a barrier isn't required there as approved by the RBS.

**When are audits of existing pools that have had Form 23 submitted starting?**

Developed in conjunction with industry feedback, the Pool Barrier Inspection Audit (Pilot) program aims to help ensure pool and spa barriers are well designed and built to last, helping keep Victorians safe.

This forms part of the VBA's commitment to protecting and securing lives and livelihoods through proactive, best-practice regulation.

The VBA will deploy members of its Inspection Services team to go out in the field with Building Inspectors who issue Form 23s to inspect pool barriers, with education and training our focus.

These onsite inspections are planned to commence at the start of 2023. The VBA is working with councils to deal with persistent issues with Building Inspectors whose Form 23's are incorrectly completed. This enables the VBA to prioritise our resources to those inspectors that require more attention.

**Under 1926.1-1993 what height/clearance does a boundary barrier require?**

A minimum 1200mm high and 1200mm clearspan is required. Noting that if applicable barrier standard is Part 9A of the Regulations, the owner has another option which is a 1.5m pailing fence with no requirement for a clearspan/non-climbable zone (NCZ).