



Applicable building standards: Safety barriers for post-May 2016 private swimming pools

This document provides guidance for post-May 2016 private swimming pools and details the applicable building standards for their safety barriers as detailed in Regulation 31C of the [Building Regulations 2012](#) (the Regulations).

Definitions

The terms **swimming pool**, **private swimming pool**, **pre-May 2016 private swimming pool** and **approved barrier solution** are defined in the Regulations.

A post-May 2016 private swimming pool is a private swimming pool other than a pre-May 2016 private swimming pool.

Building Code of Australia

Where a building permit is required, a proposed private swimming pool, and its safety barrier, needs to comply with the performance requirements in the edition of the [Building Code of Australia](#) (BCA) that is in effect at the time the application for a building permit is made. Note that the 12 month transition period pertaining to the use of the previous edition of the BCA does not apply to pool safety barriers.

Where the property is located in an area of the State where a building permit is not required, the private swimming pool, and its safety barrier, needs to comply with the performance requirements in the edition of the BCA that is in effect at the time construction commences. The BCA performance requirements can only be satisfied by a:

- Performance Solution;
- Deemed-To-Satisfy (DTS) Solution; or
- combination of the above.

Private swimming pools in all areas of the State are required to have compliant safety barriers at the time of completion of the building work, irrespective of whether a building permit was required. There are no areas of the State where the applicable building standards do not apply.

Deemed-to-satisfy solutions

Compliance with the BCA performance requirements for pool safety barriers can be achieved by satisfying the prescriptive DTS provisions. For BCA 2016, in effect at the time of writing this guidance, these are Australian Standards AS 1926.1-2012 and AS 1926.2-2007 incorporating amendments no 1 and 2.

Performance solutions

A performance solution for pool safety barriers cannot be used without the approval of the permit authority. This restriction applies irrespective of whether the pool safety barriers require a building permit.

A building surveyor must not sign a Certificate of Design Compliance (CDC) or Certificate of Building Compliance (CBC) if their certification relies upon a performance solution for pool safety barriers unless the performance solution has been approved by the permit authority. This is because a building surveyor cannot confirm the safety barriers are compliant without the performance solution being approved by the permit authority. A CDC or CBC cannot be used as an application for a performance solution.

Where a performance solution for pool safety barriers is being considered, the permit authority should be consulted initially and throughout the development of the performance solution.

The Australian Building Codes Board's '[Development of performance solutions](#)' document can be used to guide the development of the performance solution.

An example of the consultation process with the permit authority is:

1. Discussion of the proposal;
2. Collaboration on, and subsequent agreement with, the design brief for a performance solution; and
3. Submission of the final report for assessment and subsequent approval of the performance solution.

Permit authorities must consider a proposal for a performance solution. Assessment of the performance solution should be against the performance requirements. Permit authorities should only decide to not approve the performance solution after having considered it fully.

Where the permit authority decides not to approve a performance solution, a right of review by the [State Administrative Tribunal](#) can be triggered if the applicant submits to the permit authority an uncertified application for a building permit that includes the unapproved performance solution, and the permit authority refuses the application.

[Industry Bulletin 102 – Performance Solutions for housing projects](#) provides useful guidance on the formation of performance solutions.

Disclaimer

The information contained in this bulletin is provided as general information only and should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.

March 2019