

# **Pool Fencing**

**A guide to the Fencing of Swimming Pools Act  
1987**

The purpose of this note is to assist the Nelson City Council and pool owners guard young children from the potential of drowning or injury in swimming or spa pools.

## What is a pool?

A pool is described as being any excavation, structure or product that is used or is capable of being used for swimming, wading, paddling or bathing and includes spa pools.

## What exactly is the law?

The Fencing of Swimming Pools Act 1987 was introduced in 1987, making territorial local authorities responsible for ensuring that pool owners comply with the legislation.

A schedule in the Act sets out the requirements for fences and case law based on relevant court cases regularly improves the way the law is applied. Legal determinations made under the Building Act at times apply to pool fencing. Details of determinations can be accessed via the following website:

<http://www.dbh.govt.nz/determinations-view-past-determinations>.

Anyone intending to build a new pool, or new pool fence, must apply for and uplift a building consent prior to commencing the work.

The Fencing of Swimming Pools Act requires pool owners to notify the Council of the existence of a pool. An application for a Building Consent is an acceptable way of notifying the Council of the intended installation of a new pool or fence.

## Building consents

Having determined that a new fence, part of a fence, or a gate is required it will be necessary to obtain a building consent.

This can be done at the Council Service Centre by completing form BAM002-PF (Application for Building Consent for a Swimming Pool Fence).

- Forms are available on-line (<http://www.nelsoncitycouncil.co.nz>) or from the Council Customer Service Centre.
- A Building Consent Officer at the Civic House can assist you in completing this process.
- A building consent is also required for the installation of a spa pool fence.

## Swimming/spa pool & fencing

Have you got your building consent? Is the pool registered at the Council?

The Consent will cover:

- Pool fencing detail
- The pool structure
- Siting of the pool
- Registering the pool with Council
- Filling and draining the pool
- Other safety considerations

Is the immediate pool area fenced? Has the pool been inspected?

**If the answer to any of the above is “NO”, contact the City Council on**

+64 3 546 0203 or <http://www.nelsoncitycouncil.co.nz>.

The Fencing of Swimming Pools Act 1987 requires that the pool is NOT filled or partly filled with water until such time as the pool or immediate pool area complies with the Act and compliance has been confirmed by a Council Officer.

Note: Standards New Zealand have published a standard for Safety Barriers and Fences Around Swimming Pools, Spas and Hot Tubs (NZS 8500:2006). This contains some useful additional information but has **NOT** been incorporated in law (as at November 2011) and **DOES NOT** replace or over-ride the Fencing of Swimming Pools Act 1987.



## How can I find out if my pool complies?

An inspection by a Council Swimming Pool Inspector can confirm if your pool fence complies.

Council's records on your property represent its current status. You can enquire through the Council's Customer Service Team on +64 3 546 0200 and then, if required, make an application for an inspection through the Building Department of the City Council.

If your existing pool is not registered, i.e. not on the Council system, you will need to complete the application form and pay the inspection fee. This form is available on-line or from the Council Service Centre. If this inspection results in the need to install a fence or, where a new fence is required, it will be necessary for a Building Consent to be issued prior to that work being done.

## Don't become complacent.

Even when your pool has a complying fence, continually safeguard your pool area by:

- Not propping open gates or doors or keeping them off their latches.
- Fencing off any door that is not self-closing and self-latching.
- Making sure that children don't leave bikes, or toys etc against the fence.
- Ensure signage is on doors.
- Not placing objects such as flowerpots, deck chairs, firewood, boxes, wheelbarrows etc against either side of the fence.
- Ensure gates self-close and latch.

## The immediate pool area is to be fenced

Immediate pool area means the land in or on which the pool is situated and so much of the surrounding area as is used for activities or purposes, which are only carried out in conjunction with the use of the pool.

The immediate pool area must not include the whole of the outdoor living space (your boundary fence alone is not acceptable) and/or thoroughfares.



You should only enter the pool area for activities related to the use of the pool. The pool fence should prevent young children moving directly to the pool from the house, other buildings, garden paths and other areas of the property normally open to them. Areas such as vegetable gardens, domestic clothes lines, children's play areas, amenities and access to them, via the pool will be excluded from the immediate pool area.

## What fencing is required?

A fence that complies with the Fencing of Swimming Pools Act 1987 that prevents any child up to six years of age from climbing over, under or through it.

## What types of fence comply?

A fence complies with the Fencing of Swimming Pools Act 1987:

- If all materials and components are of a durable nature, and the fence is a continuous barrier of appropriate height, rigidity, and strength to prevent any child up to six years of age from climbing over, under, or through the fence from the outside.
- The fence shall extend 1.2 metres above the ground and be at least 1.2 metres distant from any object outside the pool enclosure, which might allow a child to climb the fence.
- Ensure trees and vegetation do not assist climbing of a pool fence or restrict gates or doors from closing.
- There shall be no gap between vertical components of the fence greater than 100mm.
- There shall be no gap under the fence greater than 100mm.

- Where the fence is constructed of perforated material, trellis, netting or mesh, gaps must be no greater than 10mm for a fence up to 1.8 metres high. *Note: This measurement is on the diagonal or widest part of the gap. Fences 1.8 metres or higher may have up to a 50mm gap.*
- Horizontally boarded fences shall have all the gaps filled, and all support rails, bracing etc that are not vertical are made inaccessible for climbing from the outside, or
- The support rails are on the outside with the distance between any two of them being at least 900mm.
- The fence must surround only the immediate pool area.

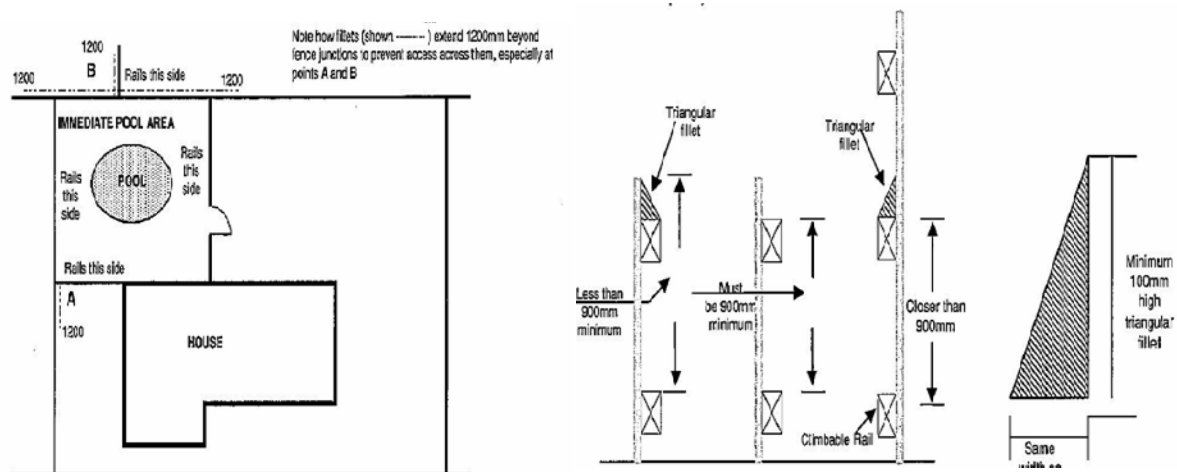
### Can a paling fence be used?

A close-boarded paling fence (boundary fence) may be used as a pool fence provided any rails, supports and bracing on the outside are vertical so children cannot climb them.

This means horizontal rails must be a minimum of 900mm apart, which is not usually the case in most standard fences. They could be altered to make them inaccessible to climbing.

### Swimming pool fences:

As an alternative Solution for paling or corrugated steel fences, where the rails are on the outside of the fence, and are closer than 900mm, the Council accepts, as an Alternative Solution to satisfy the Building Code and Fencing of Swimming Pools Act, the fixing of a triangular fillet on the top side of (usually) the centre rail. The fillet must be treated, be minimum 100mm high x width of rail, and fixed to the top of one or more rails so that the climbable rails are 900mm minimum apart (Refer to sketch below for examples).



### Boundary fences

One consideration when designing a pool fence is that if the pool fence is also a boundary fence, you may have limited control over any object placed against the neighbour's side and this might allow a child to climb into your pool area, from next door.

## Can buildings be part of a pool fence?

They can when they comply with all aspects of the Act and a Council Swimming Pool Inspector has deemed them to be part of the immediate pool area.

**Important:** If you wish to use part of a building that includes doors, within a pool fence, be aware that the pool should be fenced in isolation; eliminating any direct access to the pool from the house.

## What about gates doors and windows?

### Gates must:

- Not open in towards the pool area.
- Be fitted with a self-latching device and a self-closing device capable of closing a gate which is a maximum of 150mm ajar.
- If placed on the pool side, must only be accessible by reaching over the top of the fence, gate or through a hole at least 1.2 metres above the ground from the outside.
- If on the outside of the gate, must be at least 1.5 metres above the ground.
- Be clear of anything that could hold them open.
- Not lift off their hinges or unlatch if pulled down or lifted up.
- Hinges that could be used as a foot hold must be 900mm apart or fitted with a slip device or cap.

### Hinged doors must:

- Not open in towards the pool area.
- Be fitted with a self-latching and a self-closing device capable of closing a door which is a maximum of 150mm ajar
- Have the self-latching device at least 1.5 metres above floor level.
- Be clear of anything that could hold them open.
- Double gates or doors are required to:
  1. independently self-close and be self-latching at a height of 1.5 metres (or above) or;
  2. have one side of the door/gate permanently fixed shut. Padlocks, keyed tower-bolts and tower-bolts are not acceptable to secure the second gate/door.
- Ranch sliders and sliding/folding doors must:
  1. Be fenced off from the pool area.
  2. If deemed to be in the immediate pool area by a Council Swimming Pool Inspector, must self close and self-latch or have a Special Exemption.

### Windows

- Any opening windows lower than 1.2 metres from floor level must be restricted to open no more than 100mm.
- You must also restrict the window if you have any climbing aids placed against the window, such as furniture and including a window ledge that reduces the required height.

**Pools/Spas must remain empty until they have an approved complying fence installed, or have been granted an exemption.**



## Are any pools exempt from fencing?

There are basically four types of pools that the Fencing of Swimming Pools Act does not apply to:

1. An above ground pool where the side wall is no less than 1.2 metres above the ground or any permanent object. (A removable ladder or steps will be required.)
2. A structure or product where the maximum depth of water does not exceed 400mm.
3. A pool that is wholly enclosed within a building that is principally used for purposes other than the use of the pool. (Any exemption is based on the current interpretation of Section 5(e) of the Act. Please note that should the Courts or determinations from the Department of Building & Housing subsequently provide greater clarity in relation to the interpretation, the status of the pool may change.)
4. A pool where people are employed to provide supervision while the pool is available for use and the pool is behind locked gates/doors, at other times.

## Special exemptions section 6 of the Fencing of Swimming Pools Act 1987

In special circumstances the Council may grant an exemption from some or all of the requirements of the Fencing of Swimming Pools Act 1987.

Such exemptions go before a hearings panel made up of Nelson City Councillors. The hearings panel is responsible for making the decision. The applicant may attend the meeting or have a representative attend for them.

Also, pool owners with an exemption are warned that, Department of Building & Housing Determinations made since the pool was last inspected, may mean that their once exempt pool may no longer be exempt.

See reference to "What exactly is the law?" on page one.

**However, exemptions may only be granted where they will not significantly increase the danger/risk to young children and the Council may impose other conditions relating to the property or pool as are reasonable in such circumstances.**

## Any exemption granted or condition imposed can be amended or revoked by the Council at any time.

Having determined you have good reason for seeking special exemption, the application form must be completed and fee paid prior to the exemption going to the committee. This form is available on-line or from the Council Service Centre.

*PLEASE NOTE: The value of aesthetically pleasing gardens cannot be placed above the value of human lives. The effect on the appearance of the property is not a reason for seeking an exemption.*

## How to avoid enforcement action

Every swimming or spa pool owner is responsible for ensuring that all of the immediate pool area is fenced in a way that complies with the Act. This means that the fence must also be maintained in a way that complies with the Act and if for whatever reason, it does not comply, the pool must remain empty until the pool fencing requirements have been met.

Whilst the pool is empty, it must be totally enclosed by fencing which complies with the NZ Building Code Clause F4 "safety from falling"



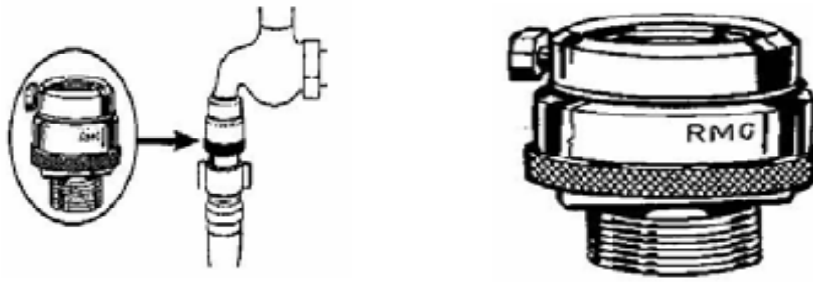
## Filling the pool

When filling the pool there is a requirement to have a backflow prevention device fitted to prevent contamination of the City's water supply.

Backflow preventers are devices fitted into the pipe or hose system used to fill the pool to stop water from the pool being sucked back into the pipe or hose for whatever reason (e.g. a fall in the mains water pressure) thereby contaminating the water supply with pool water.

There are four types of devices that can be used: air gaps, vacuum breakers, both atmospheric and pressure type, double check valve assemblies and reduced pressure zone devices.

For hose-filled pools, the Building Code requires a vacuum breaker to be fitted. (Atmospheric or pressure type)



These small devices are generally attached to hose taps and in turn to an outlet such as a garden hose.

You can get more information about these fittings from your pool supplier or local plumbing merchant.

### Emptying the pool

Water emptied from a pool must be discharged into the Council's sewerage system via a gully trap and never into stormwater drains.

In more rural areas it is not permissible to discharge pool water into stormwater drains or waterways.

The filter backwash water may contain contaminants and so must also be put through a gully trap into the sewer not to stormwater drains, streams or rivers.

**Please note: This document is only a guide. For further information refer to the Fencing of Swimming Pools Act 1987, or contact the Nelson City Council**

Civic House  
110 Trafalgar Street Nelson  
Office hours are Monday to Friday, 8.30am to 5.00pm.

Phone: +64 3 546 0200  
Email: [enquiries@ncc.govt.nz](mailto:enquiries@ncc.govt.nz)