



# Building permits for swimming pools, spas, and their associated fences

***This fact sheet provides guidance on the requirement for building permits for swimming pools, spas, and their associated fences.***

## Swimming pools and spas

A building permit is required to be in effect prior to the construction, erection, assembly, placement, renovation, alteration, extension, improvement or repair of a swimming pool.

A building permit is also required to be in effect prior to the assembly, reassembly or securing of a relocated swimming pool.

A swimming pool is defined as any excavation or structure containing water and principally used, or that is designed, manufactured or adapted to be principally used for swimming, wading, paddling, or the like, including a bathing or wading pool, or spa.

The above includes above-ground, in-ground, and portable swimming pools and spas.

## Fences forming part of a barrier to a private swimming pool

A building permit is required to be in effect prior to the construction, erection, assembly, placement, renovation, alteration, extension, improvement or repair of a fence forming part of a barrier to a private swimming pool.

A building permit is also required to be in effect prior to the assembly, reassembly or securing of a relocated fence forming part of a barrier to a private swimming pool.

A private swimming pool is a swimming pool (as defined above) which has the capacity to contain water that is more than 300 mm deep and that is associated with:

- (a) a Class 1a building;
- (b) less than 30 sole-occupancy units in a Class 2 building; or
- (c) a Class 4 part of a building.

A Class 1a is one or more buildings, which together form a single dwelling including the following:

- (a) a detached house.
- (b) one of a group of two or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, town house or villa unit.

A Class 2 building is a building containing two or more sole-occupancy units where each sole-occupancy unit in a Class 2 building is a separate dwelling.

Sole-occupancy unit means a room or other part of a building for occupation by one or joint owner, lessee, tenant, or other occupier to the exclusion of any other owner, lessee, tenant, or other occupier.

A Class 4 part of a building applies to some types of accommodation located within a Class 5-9 building. For example, caretaker's accommodation connected to a shop or office.

Further information on the classifications of buildings can be found in the Building Code of Australia, freely available from the [Australian Building Codes Board](#).

## Exceptions

A building permit is not required where a private swimming pool or spa, or a fence forming part of its barrier:

- is to be erected for a period of one month or less; or
- is to be located in an exempt area of the State.

Some areas of the State do not require building permits for certain building work. These are typically areas located outside of townsites in some regional areas.

More information can be found in the Table in Schedule 4 clause 1 of the Building Regulations 2012 (Regulations).

In addition, a building permit may not be required in certain circumstances where the swimming pool, spa, or fence forming part of a barrier to a private swimming pool, is undergoing renovation, alteration, improvement, repair or maintenance. More information can be found in Item 2 in the Table in Schedule 4 clause 2 of the Regulations. For further details please contact Building and Energy or your local government/permit authority.

Where a building permit is not required under the Regulations, each owner of the building or incidental structure is responsible for ensuring compliance with the applicable building standards (section 37(2) of the *Building Act 2011*).

### Consequences for owners

Failure to obtain a building permit may result in additional, otherwise unnecessary, expense for the property owner. The process for getting approval for existing structures can be significantly expensive, time-consuming, stressful, and troublesome.

Failure to have a building permit in effect, where a building permit is required, is an offence with the following associated penalties:

Penalty:

- (a) for a first offence, a fine of \$50 000;
- (b) for a second offence, a fine of \$75 000;
- (c) for a third or subsequent offence, a fine of \$100 000 and imprisonment for 12 months.

Furthermore, failing to comply with applicable building standards is a separate offence with the same penalties as above.

### Consequences for suppliers

Where suppliers of swimming pools, spas, and their associated fences provide misleading representations to the consumer, Building and Energy encourage the consumer to report this to [Consumer Protection](#).

It is illegal for a business to engage in conduct that misleads or deceives, or is likely to mislead or deceive, consumers. This law applies even if it did not intend to mislead or deceive anyone, or if no-one suffered any loss or damage as a result of its conduct.

While a business is not required to disclose information in all circumstances, there will be situations where it must provide information to avoid engaging in misleading or deceptive conduct. A business should disclose additional information to consumers where it is likely that its conduct has created a misleading impression, or where it is reasonable to expect that this information will be disclosed.

It is the business' responsibility to provide correct information to the consumer during negotiations and by not doing so, even if just remaining silent, could mean it is in breach of the Australian Consumer Law. A business must not provide false or misleading claims or statements and must not engage in conduct that is misleading or deceptive. A range of remedies are available under the Australian Consumer Law including significant criminal and civil penalties.

Suppliers can protect themselves by correctly advising consumers of the requirement for a building permit and creating a subsequent record. This may be as simple as emailing a copy of this fact sheet to the consumer prior to the sale of the product.

### Further information

Further information, including information about the building permit process, is available from:

[www.dmirs.wa.gov.au/building-and-energy](http://www.dmirs.wa.gov.au/building-and-energy)

Additional links:

[A guide to the building approvals process in WA](#)

[Swimming, spa and portable pool webpage](#)

[Thinking of installing a swimming pool or spa?](#)

**Disclaimer** – The information contained in this fact sheet is provided as general information and a guide only. It 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.

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