

13-Dec-22

Planning System Implementation Review

Email: DTI.PlanningReview@sa.gov.au

Re: State Planning Commission Open Space and Trees Project

ABOUT SPASA

The Swimming Pool and Spa Association of Australia (SPASA) is the peak industry body representing the interests of the swimming pool and spa industry.

As the voice of the industry, SPASA represents pool builders, manufacturers, suppliers, retailers, technical servicemen, subcontractors, installers, consultants and other allied trades, all of whom set themselves apart from the rest of the industry by setting standards of skill, workmanship and ethical business behaviour in the best interests of pool and spa owners.

SPASA is also a Registered Training Organisation (RTO) that provides training and assessment to the swimming pool and spa industry. Our courses are designed in consultation with key industry stakeholders and our qualifications and accreditations are highly valued by government, employers and the wider community.

The Swimming Pool and Spa Industry is diverse and includes but is not limited to the following sectors:

Manufacturers of Equipment & Chemicals	Suppliers of Equipment & Chemicals
Pool Builders	Pool and Spa Service Technicians
Pool Shops	Consultants
Online Retailers	Portable Spa Retailers
Prefabricated Pool Manufacturers & Retailers	Tiling/Paving Suppliers & Retailers
Pool & Spa Heating Manufacturers/ Retailers	Pool Cover Manufacturers & Retailers
Ancillary Retailers	Other Sub Trades

SPASA - INDUSTRY EXPERTS

SPASA has a long history of driving change. Our commitment and involvement as the proponent or key advocate to modify existing or develop new Australian Standards has seen us participate in Working Groups and as Committee Members on the following Australian Standards:

- AS/NZS1838: Swimming Pools-Premoulded Fibre-Reinforced Plastics-Design/Fabrication
- AS/NZS1839: Swimming pools-Premoulded Fibre-reinforced plastics-Installation
- AS1900 Flotation Aids for water familiarisation and swimming tuition
- AS1926.1 Swimming Pool Safety - Safety Barriers
- AS1926.2 Swimming Pool Safety - Location of Safety Barriers
- AS1926.3 Swimming Pool Safety - Water Recirculation Systems

- AS2818 Guide to Swimming Pool Safety
- AS2369.1 Materials for solar Collectors for Swimming Pools
- AS2369.2 Materials for solar Collectors for Swimming Pools
- AS3634 Solar heating systems for swimming pools
- AS/NZS 2416.1 Water Safety Signs and Beach Safety Flags
- AS/NZS 2416.2 Water Safety Signs and Beach Safety Flags
- AS/NZS 2416.3 Water Safety Signs and Beach Safety Flags
- AS2610.1 Spa Pools - Public Spas
- AS2610.2 Spa Pools - Private Spas
- AS4687.4 Temporary Fencing and Hoardings (Temporary swimming pool fencing)
- AS/NZS4755 Demand Response Capabilities – DRED
- AS/NZS5102.1 Performance of household electrical appliances-Swimming pool pump-units
- AS/NZS5102.2 Performance of household electrical appliances-Swimming pool pump-units
- AS5125.1 Heat Pump Water Heaters - Performance Assessment Part 1: Air sourced
- AS5348 Pool Covers
- AS5352 Swimming Pool Heat Pump Systems

DISTANCE FROM DEVELOPMENT

The SA regulatory framework currently says that a tree that would be protected based on its trunk circumference may be removed if it is within ten (10) metres of an existing dwelling or existing in-ground swimming pool (with some species exemptions). The Research Report recommended reducing this distance, and the Panel seeks feedback about how this proposed change.

Questions for consultation:

- 1. Currently you can remove a protected tree (excluding *Agonis flexuosa* (Willow Myrtle) or *Eucalyptus* (any tree of the genus) if it is within ten (10) metres of a dwelling or swimming pool. What are the implications of reducing this distance?**

Nil implications.

SPASA supports reducing the distance.

The Australian backyard has been shrinking for decades due to an increasing population, affordability issues, subdivisions, and high-density development. South Australia has not been immune to this trend.

The installation of swimming pools and spas is becoming extremely difficult on smaller lots, especially when you account for the minimum landscape requirements set out under PO 12.1 & DTS/PDF 12.1 of the Planning and Design Code.

2. What are the implications of revising the circumstances when it would be permissible to permit a protected tree to be removed (i.e. not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?

Nil implications.

SPASA supports revising the circumstances for when it would be permissible to permit a protected tree to be removed.

OTHER MATTERS

AS4687.4 TEMPORARY FENCING AND HOARDINGS – TEMPORARY SWIMMING POOL FENCING

Background

SPASA supports keeping construction sites safe by providing protection to the public and restricting unauthorised access to swimming pools under construction and renovation.

In South Australia, pool building companies must comply with wide ranging obligations as defined under the Health and Safety (WHS) obligations as defined in legislation.

In relation to temporary fencing, pool building companies have historically relied upon and used temporary fencing as prescribed by Australian Standard AS4687 Temporary Fencing and Hoarding as opposed to the permanent requirements of Australian Standard AS 1926.1-2012 (Swimming pool safety Part 1: Safety barriers for swimming pools).

Whilst SPASA supports temporary fencing requirements and other control measures for all swimming pools and spas being constructed or renovated, industry is unable to comply with Clause 7 of the Regulation as drafted.

AS1926.1 - 2012

As raised with the Building Policy & Programs Planning and Land Use Services - Department for Trade and Investment, swimming pool builders currently use temporary swimming pool fencing when constructing or renovating a swimming pool, this is because compliance with AS1926.1 is almost impossible on an active construction site due to Permanency, Testing, Reporting and other factors.

Construction site work conditions and processes are complex and dynamic in nature.

The working landscape of a construction site changes as the project progresses. So do the risks, hazards, maintenance, and review of control measures.

The installation of a pool barrier as prescribed under AS1926.1 cannot and should not be relied upon or used in place of temporary fencing as a swimming pool construction site is a functioning work site and will not be ready for a 'permanent barrier' to be installed while construction is still ongoing.

When you carefully review the requirements of AS1926.1 and associated testing, you very quickly become aware that this standard does not work in practice for swimming pool construction projects.

Like any carpark and building excavation, swimming pools heavily use temporary fencing and other considered and dynamic control measures during the construction phase.

A temporary fence and its functions on a construction site are vastly different to that of a permanent barrier that is installed at the end of a completed project.

Mandating permanent barrier requirements (AS1926.1) for swimming pool construction sites is illogical with its implications not carefully considered.

As can be seen from the images below, imposing legislative requirements for industry to comply with AS1926.1 does not work in practice, and can never work on a dynamic construction site.

Images:



New Australian Standard - AS4687.4 Temporary fencing and hoardings – Temporary swimming pool fencing

This Standard was prepared by the Standards Australia Committee CE-008, Chainlink Fabric Security Fences and Gates. It was published in August 2022 and being utilised by industry.

The objective of this document sets out requirements for the construction and installation of temporary swimming pool fencing in order to provide protection to the public and to restrict unauthorized access to swimming pool construction, repair, or renovation sites.

This standard sets out appropriate temporary fencing requirements for swimming pools which are fit for their intended purpose.

SPASA submits that the industry should be able to rely upon AS4687.4 instead during the construction or renovation of a swimming pool and spa.

AS4687.4 also advises readers that other safety control methods may be used on swimming pool construction, repair, or renovation sites, however these are outside the scope of this standard.

Other Control Measures

The most typical method to control risks on a construction site is the use of an appropriate temporary fencing system.

Temporary fencing and other control measures can independently or jointly effectively control unauthorised entry onto an occupied and unoccupied construction site.

Other acceptable Control Measures may include but are not limited to the following:

- Over Top - Pool Timber Structures
- Other types of pool enclosures
- Combination of Control Measures

Swimming pools—designated safety requirements (the Reg)

Part 2 within the Regulation addresses fences and barriers, however, it stipulates that temporary fencing can only be used for maintenance and repairs. This should also extend to swimming pools and spas under construction.

Requirements for Designated Safety Features (the Reg)

Part 6 refers to the requirements relating to the construction and safety of swimming pools under the Building Code.

Unsurprisingly, no other excavation type activity is listed within the BCA and has permanent requirements referenced for works under construction.

The NCC is not the appropriate reference for Control Measures for projects under construction.

Designated safety requirements—construction of designated safety features (the Reg)

Part 7 stipulates that designated safety features must be completed on or before the first of the following dates:

- c. the date that falls 2 months after completion of the construction of the swimming pool;

Note: Many swimming pools can take more than 2 months to complete due to weather, supply chain, environmental, shortage of trades and other typical construction site events that delay works.

In almost all settings, the construction site is not yet ready to receive a permanent barrier as prescribed under AS1926.1.

Note: The construction of a fibreglass swimming pool can normally take 3 or more days to install. During installation, the process cannot be sequenced without filling the pool with water while at the same time backfilling material.

In almost all settings, the construction site is not yet ready to receive a permanent barrier as prescribed under AS1926.1.

As drafted, Part 7 does not work for industry.

SA Excavation Code of Practice

The SA Excavation Code of Practice highlights the risk management process to identify all hazards associated with excavation work and the hierarchy of control measures that must be followed.

The Code is underpinned by references to WHS requirements. Further on this below.

Current Work, Health & Safety Arrangements

Currently, pool building company employers comply with wide ranging obligations as defined under the Health and Safety (WHS) obligations as defined in legislation.

Until now, there has not been an Australian Standard for temporary fencing specifically targeting the swimming pool and spa industry. The industry has relied on the WHS Act, Reg alongside AS1926.1, which is problematic during the construction phase.

Construction Sites Are Dynamic

Pool construction site work conditions and processes are complex and dynamic in nature.

The working landscape of a pool construction site changes as the project progresses. So do the risks, hazards, maintenance, and review of control measures.

Requiring the industry to use AS1926.1 on a pool under construction is difficult and often, cannot be achieved. This is because the characteristics of a pool temporary fence and its functions on a pool construction site are vastly different to that of a permanent barrier that is installed at the end of a completed project.

Work, Health & Safety (WHS)

Builders must comply with wide ranging obligations as defined under the Health and Safety (WHS) obligations as defined in legislation.

Construction work has to do with any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, and refurbishment, demolition, decommissioning or dismantling of a structure.

The WHS Regulations also provide prescribed requirements in the following areas:

- Management of risks to health and safety
- Security of Workplace
- Managing risks to health and safety
- Specific requirements must be complied with
- Duty to identify hazards
- Managing risks to health and safety
- Hierarchy of control measures
- Maintenance and review of control measures

PCBU's must do what is reasonably practicable to eliminate or minimise the risks associated with those things over which they have control and must provide the highest level of protection that is both possible and reasonable in the circumstances.

PCBU's are required to consider all the following in determining what is reasonably practicable:

- the likelihood of the hazard or risk occurring
- the consequences or degree of harm that might result
- what the duty holder ought to know and what the duty holder knows about the hazard
- what is available to eliminate or minimise the risk
- its suitability
- the cost of mitigating the risk
- other matters relevant such as other legislation or the capacity to control or influence matters

Further obligations are that the primary duty of care is owed by "a person conducting a business or undertaking" (PCBU).

Essentially, the duty requires that a PCBU ensures so far as it is reasonably practicable, the health and safety of workers and other persons affected by the business or undertaking.

AS4687.4 & WHS Application

As raised with Building Policy & Programs Planning and Land Use Services - Department for Trade and Investment, SPASA submits that AS4687.4 and WHS considered Control Measures should be used for the construction phase of a swimming pool and spa project and that AS1926.1 should be used when the pool is completed, and a permanent barrier is required.

Further Consultation

SPASA looks for further consultation on this matter with the **Planning System Implementation Review Team**.

ACCREDITED PROFESSIONALS SCHEME DRAFT

In 2018, SPASA advocated heavily and submitted a proposal for the Accredited Professionals Scheme Draft to have a **Level 4: Building Inspector introduced - restricted to swimming pool safety inspections** introduced.

Currently, with the following jurisdictions have a mandatory pool safety barrier program in operation: QLD, NSW, VIC, and WA. Moreover, another non-listed Australian region is currently consulting with industry to introduce a mandatory pool safety barrier program.

SPASA recommends that the South Australian Government consider the inclusion of a **Level 4: Building Inspector introduced - restricted to swimming pool safety inspections** that can be undertaken by Licensed Swimming Pool and Spa Service Technicians and other industry relevant trained professionals in undertaking pool barrier inspections.

A copy of that 2018 submission can be found [HERE](#). Whilst the submission may require some tweaking since it was first published, it presents an excellent starting point.

CONCLUSION

The Swimming Pool and Spa Industry takes the role of swimming pool safety very seriously.

Our objectives around safety can only be realised by investing in appropriate consultation, policy and education.

In this regard, SPASA remains committed to working with the South Australian government to ensure the objectives of safety brought about by good policy; education and consistency remain the number one objective.

Further Consultation

SPASA looks for further consultation on this matter with the **Planning System Implementation Review Team**.

For further information:

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