



1



Consumer Information

Swimming Pools and Small Heated Pools (Spa Pools and Hot Tubs)



QUICK LINKS

**NEW POOL
LEGISLATION**

**POOL OWNER
RESPONSIBILITIES**

SAFETY INSPECTIONS

**POOL AREA SAFETY
CHECKLIST**

**EXEMPTION FROM
POOL FENCING
REQUIREMENTS**

**EXISTING POOLS THAT
DO NOT COMPLY**

REMOVING A POOL

**FURTHER
INFORMATION**

Contents

New pool safety legislation	4
Persons responsible for ensuring a pool barrier complies	4
Regular safety inspections of your pool fence and barrier	4
Booking a pool barrier safety inspection	5
Unsuccessful safety inspections.....	5
Pool inspections and associated costs.....	5
Qualified persons who can undertake a swimming pool/small heated pool inspection	5
How to book a swimming pool/small heated pool inspection	6
Pool area safety checklist.....	6
Why you need to restrict access to your pool.....	6
Restricting access to your pool.....	6
Pool barrier safety checklist.....	7
Pool gates.....	7
Small heated pools (hot tubs and spa pools)	8
Exemption from pool fencing requirements for new residential swimming pools.....	8
Current pool fencing meeting the new fencing requirements if it complied with the Fencing of Swimming Pools Act 1987	8
Neighbour's boundary fence compliance to meet pool safety requirements	8
Changes to doors opening into pool areas for new residential swimming pools	8
Small heated pool fencing and/or a building consent.....	9
Existing swimming pools or small heated pools that do not comply with new legislation	9
The building consent process.....	9
Removing a Pool	9
Apply to remove your pool from our register	9
Further information	10

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	3 of 8

New pool safety legislation

New pool safety legislation came into effect on 1 January 2017.

The Fencing of Swimming Pools Act 1987 is no longer in effect. The Building (Pools) Amendment Act 2016 was introduced and includes new provisions in the Building Act 2004 relating to residential pools.

- Residential pools, including indoor swimming pools, require a compliant barrier and an inspection every three years, unless they are small heated pools that comply with [Building Code Clause F9 Restricting access to residential pools](#) (see Pool area safety checklist).

Persons responsible for ensuring a pool barrier complies

The following persons must ensure compliance of the pool barrier:

- owner of the pool
- pool operator
- owner of the land on which the pool is located
- occupier of the property in or on which the pool is located
- purchaser of the pool, if the pool is subject to a hire purchase agreement (as defined in the Income Tax Act 2007)
- lessee of the pool or the premises (if the pool is on premises that are not subject to a tenancy under the Residential Tenancies Act 1986, but the pool is subject to a lease or is part of a premises subject to a lease).

Manufacturers and retailers of swimming pools and small heated pools must inform buyers of their responsibilities by providing notices with these products. Also refer to [Pool Safety Guidance](#) for pool owners.

Regular safety inspections of your pool fence and barrier

The Building Act 2004 requires your pool barrier to be inspected at least once every three years by council or an independently qualified pool inspector.

Scheduled pool barrier safety inspections

Council automatically schedules safety inspections for pool barriers, approximately once every three years.

Around two weeks before the assessment date, we will send a letter letting you know when we will be in your neighbourhood.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	4 of 8

Booking a pool barrier safety inspection

If an inspector is unable to access the property because of security restrictions or dogs, or if you wish to be home when the inspector comes, you will need to contact us and book a day.

p. 0800 727 059

e. council@kaipara.govt.nz

Otherwise, our inspector will visit your property in accordance with our schedule and carry out the safety inspection.

Unsuccessful safety inspections

If our inspector comes to your property and cannot gain access to the pool area, you may be subject to charges associated with the site visit and you will need to book a return assessment time.

If the pool barrier fails the inspection, we may be required to re-book a re-check. Make sure you contact us if you are unable to get the work completed within the time given.

Sites considered particularly dangerous will be re-checked with a notified timeframe.

We can issue a 'Notice to fix' under the Building Act 2004 for a non-complying pool or pool barrier. You will be required to drain the pool and keep it empty until the required work has been completed and checked.

Note: If you do not comply with the 'Notice to Fix', you could face prosecution, maximum fine of \$5,000 and a criminal conviction.

Use our [pool area safety checklist](#) to ensure your pool is safe.

Pool inspections and associated costs

You will need to have three yearly inspections within six months before or after the anniversary date of your pool or small heated pool. The anniversary date is the date of issue of the Code of Compliance Certificate or the Certificate of Acceptance.

Council's cost for pool inspections can be found under [Fees and Charges](#).

Non-complying pools or pool barriers may require a re-inspection for which you may be charged.

Qualified persons who can undertake a swimming pool/small heated pool inspection

Pool owners can choose to either use a qualified Council inspector, or a registered Independently Qualified Pool Inspector (IQPI) accepted by the Ministry of Business, Innovation and Employment as qualified to carry out these three yearly inspections.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	5 of 8

How to book a swimming pool/small heated pool inspection

If you choose to book through the Kaipara District Council, please [contact us](#). Alternatively, you can contact a local Independently Qualified Pool Inspector (IQPI). A register of Independently Qualified Pool Inspectors is available under the [Trading Standards](#) section of the Ministry of Business, Innovation and Employment website.

Pool area safety checklist

We check compliance of all residential pools every three years to help prevent needless drownings.

Why you need to restrict access to your pool

The leading causes of children, five and younger, drowning or being injured in pools are:

- unsupervised access to pools through faulty gates and barriers
- ladders left against the pool and gates propped open
- small portable pools remaining full of water without supervision or a complying barrier.

Any portable or inflatable pool that can hold 400mm depth of water or more is required to have a barrier by law. Other portable pools like paddling pools should be supervised at all times and emptied after use.

Restricting access to your pool

Legislation requires all pools, including small heated pools (spas, hot tubs, etc) to have a barrier to prevent unsupervised access to the immediate pool area by children younger than five years old.

A pool barrier must restrict access to the pool from:

- the house
- other buildings
- vehicle or pedestrian access ways
- other areas of the property.

Non-pool related items and activities cannot be located inside the pool area including:

- clothes lines
- play equipment
- vegetable gardens
- dog kennels
- general storage areas.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	6 of 8

If we have your pool recorded as being empty, you must contact us for an inspection before you refill it.

Pool barrier safety checklist

Pool barriers must:

- restrict access to the pool and the immediate pool area
- be at least 1.2m in height above the ground and any permanent projection (for example, steps, retaining walls, raised gardens, etc) or object placed on the ground outside and within 1.2m of the barrier
- have no climbable features on the outside of the barrier (or adjoining barrier) that could be used for climbing unless they are spaced at least 900mm apart
- not have any gaps that exceed 100mm in or under it, including pet doors

Trellis or mesh fencing around the pool:

- that are higher than 1.8m must have openings 50mm or less, or be fitted with a protective cover
- with height between 1.2m - 1.8m must have openings 10mm or less, or be fitted with a protective cover.

Ensure there are no trees that could assist young children from climbing the fence.

External removable ladders must be disabled or removed after use. For pools installed after 1 January 2017, ladders are not allowed unless they are surrounded by a complying barrier and gate.

If your pool barrier features a building or boundary fence, see **Other structures used as part of the pool barrier.**

Pool gates

Gates into the pool area must:

- open away from the pool area
- self-close and self-latch unaided from any distance
- comply with the rules for fences.

The gate latch must be:

- a minimum of 1.5m above the ground and any objects within 1.2m of the barrier, if accessible from the outside of the barrier
- inaccessible from the outside except by reaching at least 1.2m if mounted on the inside of the gate

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	7 of 8

- for pools installed from 1 January 2017, if the latch is accessible only by reaching over the gate, it must be set at least 150mm from the top or be shielded.

If the latch is accessible only by reaching over the gate, it must be set at least 150mm from the top or be shielded.

Small heated pools (hot tubs and spa pools)

Your small heated pool does not need an inspection every three years if it meets the following criteria:

- a water surface area of 5 square metres or less
- 760mm high unclimbable sides (including no steps)
- a complying lockable lid, that must;
 - be capable of supporting 20kg of weight at its centre
 - have hold-down straps and fasteners capable of fixing the cover in place so there is no opening greater than 100mm
 - fasteners should have a minimum main width of 33mm
 - have a prominently displayed hazard warning notice - for example: "WARNING: This spa pool cover must be kept locked except when under adult supervision".
 - be constructed with a slope from the centre to the outside to prevent water collecting on top.

Exemption from pool fencing requirements for new residential swimming pools

Exemptions are no longer available, however under the Building Act there is provision to apply for a waiver or modification as part of your building consent process.

Current pool fencing meeting the new fencing requirements if it complied with the Fencing of Swimming Pools Act 1987

If your fence already complies then you should not need to do anything further. You will need however to ensure your pool is inspected every three years.

Neighbour's boundary fence compliance to meet pool safety requirements

As long as you maintain the height requirements to prevent access to your own pool.

Changes to doors opening into pool areas for new residential swimming pools

All doors must be self-closing or be fitted with alarms that go off if the doors don't close after someone goes through them.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	8 of 8

Small heated pool fencing and/or a building consent

There are some parameters for 'small heated pools' that do not require a fence. They need to:

- be less than 5m² surface area of the water
- be minimum 760mm high
- have no steps
- have a complying lockable lid

See further information on safety covers on the [Ministry of Business, Innovation and Employment](#) website.

Manufacturers and retailers of swimming pools and small heated pools must inform buyers of their responsibilities by providing notices with these products. It is the owner's responsibility to ensure fences, self-closing gates and latches continue to operate correctly and are maintained.

Existing swimming pools or small heated pools that do not comply with new legislation

Contact your local pool fencing supplier and/or window and door hardware supplier who will be able to supply and make adjustments to ensure your pool is compliant. Before commencing work, check with the Council to see if the extent of work you are doing will require a building consent.

The building consent process

The process for applying remains the same, although you will need ongoing inspections.

Removing a Pool

You do not need a building consent to remove or demolish a residential or small heated pool.

Note: If you want to remove your in-ground swimming pool, you need to ensure that the backfill is properly compacted. Engage a professional engineer to certify the compacted fill.

If you want to keep the pool and backfill it, punch a hole in the base to allow water to drain and then compact it.

Apply to remove your pool from our register

To inform Council that you have removed your pool you need to:

- apply to remove a pool
- include a photo showing where the pool was and - if possible - what it originally looked like.

We can then remove your pool from our swimming pool register and suspend future inspections.

Please [contact us](#) at Kaipara District Council if you wish to apply to remove your pool from our register.

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	9 of 8

Note: If Council has recently visited your property to confirm the removal of your pool, you may be subject to an inspection fee.

Further information

Helpful information is available by visiting the following websites:

- [Ministry of Business, Innovation and Employment](#)
- [Building Code Clause F9 Restricting access to residential pools](#)
- [Safety guidance for pool owners](#)
- [Building \(Pools\) Amendment Act 2016](#)
- [Building \(Pools\) Regulations 2016](#)

Document Ref:	Document Name:	Version	QAM Author	Date	Page
3111.01	MT Consumer Information SWP	1.0	QAM	October 2020	10 of 8