

# FACT SHEET 1: LEGISLATION, REGULATION & CONTRACTS

## BUILDING A POOL OR SPA IS VERY REWARDING IF YOU FOLLOW THE RIGHT STEPS, USE THE RIGHT PEOPLE AND ASK THE RIGHT QUESTIONS.

If there is one thing SPASA knows a lot about it's building pools and spas. It's a complex process with a number of steps to move through. There are also certain legal requirements that must be met and it's critical that your intended builder meets them all. SPASA stands ready to help at every step, but it's a good idea to familiarise yourself with each one before you start.

### STEP 1: OBTAIN A SPASA CONTRACT

The SPASA Pool & Spa Construction Contract is based on years of experience across the membership. Using it will afford you the highest consumer protection available.

Only SPASA members who currently hold registration, license and insurance eligibility can use SPASA contracts. It also ensures that, should a dispute arise, SPASA will be ready to step in and mediate so the consumer is fully protected. It's a detailed contract, but easily understood by the lay person and it clearly explains any exclusions.

### STEP 2: MAKE SURE YOU ARE FULLY INSURED

State law requires that domestic Building Insurance must be issued for all domestic building work over \$12,000 in total value (this includes pools and spas). SPASA recommends that you DO NOT commence any work until your builder has provided this insurance and you have the certificate in your possession, or ask to see the

Builders registration. The purpose of this insurance is to ensure that you end up with a completed pool and / or spa, holding a 6 year structural warranty. Without it, you are totally unprotected and exposed. And if you sell your home you will be required by law to provide this transferable insurance to the purchaser.

### STEP 3: ENSURE YOUR BUILDER IS REGISTERED AND LICENSED

To provide protection for every person having building works done, the Victorian government has legislated that builders must be registered with the Building Commission Practitioners Board and hold a current building registration. So, before signing a contract please check if your builder is registered, ask to see their registration card or phone 1300 360 320 or go to: [www.buildingcommission.com.au](http://www.buildingcommission.com.au)

### STEP 4: ASK IF A TOWN PLANNING PERMIT IS REQUIRED

It is possible that town-planning overlays may apply to the location of your proposed pool or spa. If so, a town-planning permit for a swimming pool / spa at that address may be required before a building permit can be issued. Check with your local council before commencing any work. Recently, SPASA has successfully negotiated a general exemption for pool and spas where the following overlays apply: Design Development Overlays and Neighbourhood Character Overlays.

### STEP 5: ASK IF A BUILDING PERMIT HAS BEEN ISSUED

Prior to the commencement of work, a building permit from a registered building surveyor must be issued to the owner with the registered builders' details. The purpose of this Building permit is to ensure that your pool meets all the applicable requirements of your municipality, as well as structural and safety requirements.

In order to obtain this Building permit your builder will need:

- Copy of the Certificate of Title.
- Copy of the block plan showing all existing buildings.
- A letter of authority for the builder to apply for a Building permit on your behalf.
- A signed agreement to comply with the requirements to provide a safety barrier/ pool fence.



In addition to this, the building surveyor will require:

- A copy of town planning permit (if applicable)
- A copy of insurance certificate (from your pool builder)

Important Note: A certificate of final inspection will be issued to the owner with a copy to the builder when the final pool inspection has been carried out and passed. This certificate must be issued prior to the filling of the pool with water (see safety barriers)

## STEP 6: SAFETY BARRIERS

Pool fencing/barriers are required by legislation for any pool or spa with water in excess of 300mm in depth and must be in place and inspected prior to filling the pool or spa with water. The key elements of the relevant Australian Standard, A.S. 1926-1993 are designed to deny access by unsupervised young children, especially those under 5 years of age, to the swimming pool area.

There is an expanded discussion of the fencing regulations at Fact Sheet 3 “Barrier Fencing”, but it is worth noting here that fences and gates must have an effective perpendicular height of 1.2 metres. Existing standard paling fences can be used provided they meet certain conditions.

Gates must open outward only and return to the closed position, engaging the latch automatically.

Walls of buildings can be used as swimming pool barriers so long as they are fitted with child resistant doors and windows. Doors must be fully self-closing and self-latching and there are rules governing acceptable window types. Please refer to AS1926.1 for the specific

requirements of the fencing code.

## STEP 7: WATER

The first thing to do when thinking of investing in a pool or spa is to read up on our Water Neutral Pool program (see page 4-5). The pleasure derived from your pool need not impinge on water catchments. In fact, a Water Neutral Pool can provide you with a means of producing thousands of litres of surplus water for use around the home.

You will need approval to fill the pool or spa from the tap, or may require alternate supply.

Pool and spa owners must consult with their local water authority to establish if water restrictions apply to their pool or spas.

The Victorian Drought Response Plan currently determines that when on Water Restriction Stages 3, 3a & 4, most new pools and spas cannot be filled. In this instance alternative water supplies can be sourced, contact your local SPASA member for advice on access to this supply.

Specific rules also apply to topping-up pools and spas, so ensure you do the right thing and contact your local water authority.

Stage 1 & 2 Restrictions: The current “permanent water saving program” means that pool owners must obtain an approval from the water authorities before filling a swimming pool.

SPASA has worked with the water authorities to create a system of ‘Water Credits’ to ensure that pool owners act as responsible water consumers. Under this scheme new pool owners, or those wishing to refill an emptied pool need to demonstrate that they will save as much water in a year as it takes to fill their pool.

To do this there are now two forms that every pool buyer must complete. The first is the Water Exemption Request Form, and second is the Water Conservation Plan. These can be downloaded from the water retailer’s websites.

## WATER CONSERVATION PLAN

This lists the areas where you will save water e.g. water saving shower nozzles, dual flush toilets, etc.

Many water saving devices and strategies may be subject to the Victorian Government’s Rebate Scheme, details of which can be found at [www.nre.gov.au](http://www.nre.gov.au).

Ask your pool builder to assist with these forms if you have any difficulty. Some builders will even send you the forms and instructions weeks prior to completion of the pool so you can complete the forms and send them to the water provider. If you need an urgent answer to your application, the water provider will often give you the result over the phone or within 48 hours.

For more information see Fact Sheet 2 “Water Conservation”.

## STEP 8: COMPLETION

Once the pool construction is complete according to the terms of your contract, your warranty period begins. At that point, your builder must issue you with a completion certificate. However that is not necessarily the end of the relationship. The pool is under domestic builder’s insurance for 6 years during which time you are able to check with your builder if you have any major concerns.