

# About...

## Swimming pools, spas and their safety barriers

There are matters of common interest raised with the Victorian Building Authority (VBA) from time-to-time about the building of swimming pools and spas and their safety barriers. To ensure consistent information and awareness, we provide this advice and information on common interest matters.

If you need more information to help you better understand any of these matters, please contact the VBA.

You can also read the VBA's technical information about swimming pools, spas and their safety barriers.

### Introduction

The VBA is the regulator of building and plumbing and is therefore responsible for ensuring a safe built environment in this state, including swimming pools and spas and their safety barriers and fences.

### Requirements

#### When is a safety barrier needed for a pool or spa?

In Victoria, swimming pools and spas with a water depth of more than 300mm (30cm)<sup>1</sup> must have safety barriers around them. This is to restrict access of young children to the pool area. Property owners and occupants are responsible for making sure pool barriers are maintained, repaired and kept in working order.

In addition, the pool's water reticulation and filtration system must minimise the risk of injury or trapping

<sup>1</sup> Applies to swimming pools and spas associated with Class 1, 2 and 3 buildings and Class 4 part of a building or a children's service

of any person using the pool and provide for safe operation of skimmer boxes and outlet systems.

The pool area on a property must be a separate, defined area with access not directly available from any other building including a dwelling (house) or outbuilding. The Australian building standard we use in Victoria defines it as "the area that contains the pool and is enclosed by a barrier".<sup>2</sup>

Generally, barriers are required for:

- In-ground pools and spas
- Above-ground pools and spa pools including inflatable pools holding more than 300mm (30cm) of water
- Indoor pools and spas
- Bathing and wading pools containing more than 300mm (30cm) of water
- Spas and swimming spas (including portable spas)

Barriers aren't required for:

- Bird baths
- Fountains
- Water supply/storage tanks
- Fish ponds
- Dams
- Baths used for personal hygiene and emptied after each use
- Pools or spas not containing a depth of water greater than 300mm (30cm)
- Inflatable swimming pools (typically toddler or wading pools) not containing a depth of water greater than 300mm (30cm)
- Spas inside a building used for personal hygiene (a spa bath in a bathroom that's emptied after each use)



<sup>2</sup> Refer to Australian Standard (AS) 1926.1

## Process

### Swimming pool, spa and barrier building permits

You must have a building permit before you install a new pool or spa, start construction on a new pool, spa or barrier or make alterations to a pool, spa or barrier (if not maintenance related). A pool or spa building permit must include details of the barrier and be issued as one permit.

The property owner will need a registered building surveyor (private or municipal) to issue the building permit. Once engaged, the building surveyor is used for the life of the project, so we'll call them the Relevant Building Surveyor (RBS).

#### What has to be in the permit?

Pool designers need to include detailed drawings and specifications of the proposed pool and barrier (refer to [Part 3 of the Regulations](#)). They should not use general notes such as, "Pool barrier to be constructed in accordance with AS1926.1–2012, AS1926.2–2007 and AS1926.3–2010" that rely on the RBS or builder to guess the compliance level. This type of statement doesn't give enough information for the RBS to issue a building permit. Detailed drawings and specifications will be particular to the site where the swimming pool or spa and the barrier are to be constructed.

Because the RBS is the only person allowed to issue the building permit for that job, they have total discretion as to what documents they need to satisfy themselves that the work will comply with the standards and regulations we use in Victoria.<sup>3</sup>

Details of the water reticulation and filtration system also need to be included in the building permit. The pool designer needs to talk to the RBS to find out exactly what information and details they want included.

<sup>3</sup> *Building Act 1993, Building Regulations 2006 and the National Construction Code*

As a guide, the minimum information needed is:

- Diagrams of the recirculation and filtration system showing connection of common lines.
- Detailed drawings of active main drain/outlet point covers.
- Section through the skimmer box.
- For spas, drawings showing the location of suction points (suction points can't be less than 600mm (60cm) apart).

Note: Outlet covers marked as tested in accordance with AS1926–2010 Part 3 satisfy the requirements for hair, body, or physical entrapment, and structural integrity will not require further design by a hydraulic specialist

The RBS can refuse to issue a building permit if enough information isn't provided.

#### What happens once the permit is issued?

Building work on new pools, spas and their barriers must start within 12 months of the date the building permit was issued<sup>4</sup>. However, the RBS who issued the permit can also write a specific date by which work must start. For example, the permit may have been issued on 17 April 2013, but the RBS can write "work must start by 17 April 2014".

A timeframe for when work must be completed must be included in the building permit. For example, "the construction of the swimming pool and associated barrier will be completed within six months of the start of the building work".

VBA recommends that the RBS places a condition on the building permit requiring the person in charge of building work (either the property owner or the builder) to notify them when work starts. The RBS can then nominate the date by which they want

<sup>4</sup> See regulation 315(1)(a)(ii)

the work finished. Where a building permit has been issued for a project which includes a pool and barrier as well as other work (such as a new house or additions to a house on the one building permit), requirements for the pool and barrier to be completed within six months of construction starting on them still applies.

#### Example

Permit issue date: 01/01/2013

##### *Commencement and completion*

This building work must commence by: 01/01/2014

This building work must be completed by: 01/01/2015 in the case of the dwelling and within six months of construction commencing on the swimming pool and associated barrier.

##### *Condition(s):*

This permit is subject to the following conditions – The owner, builder or person in charge of building work must notify the RBS that construction of the swimming pool and associated barrier has commenced.

#### Extensions to permits

If the builder or property owner has started building work but don't believe they'll be able to finish within the set timeframe, they can seek an extension to the permit period – it is at the RBS's discretion<sup>5</sup>.

If an extension is being given, the RBS will need to consider if a temporary barrier should be put around the swimming pool or spa. The RBS should inspect the temporary fence after it has been installed. For more details on temporary pool barriers see page 3.

#### What happens if the permit lapses?

If a building permit lapses for a swimming pool and barrier, the RBS:

<sup>5</sup> See regulation 315 (4)

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- will talk to the owner and registered builder to find out what stage the work has reached
- inspect the property
- decide on a course of action.

If work on the pool and barrier are completed when the permit lapses, the RBS will do a final inspection. At this stage, the RBS has a couple of options available. They can issue a certificate of final inspection, issue a minor works order if there are still some non-compliant aspects, or issue a building notice and building order on more significant non-compliant work. The latter two of these means a final certificate of inspection will not be issued at this time.

Where work has started but not been finished when the permit lapses, a new building permit (and building permit levy) will be required before any further work can be done on the site.

If the builder continues working without a new permit, the RBS can issue a stop-work order.

If the owner doesn't apply for a new building permit for the work immediately, the RBS can issue a building notice<sup>6</sup>.

If the building work is unsafe or dangerous, an emergency order<sup>7</sup> may be issued. This would require the owner or registered builder to make the building work or the site safe – it can only be issued by the municipal building surveyor (the building surveyor of the council where the property is located).

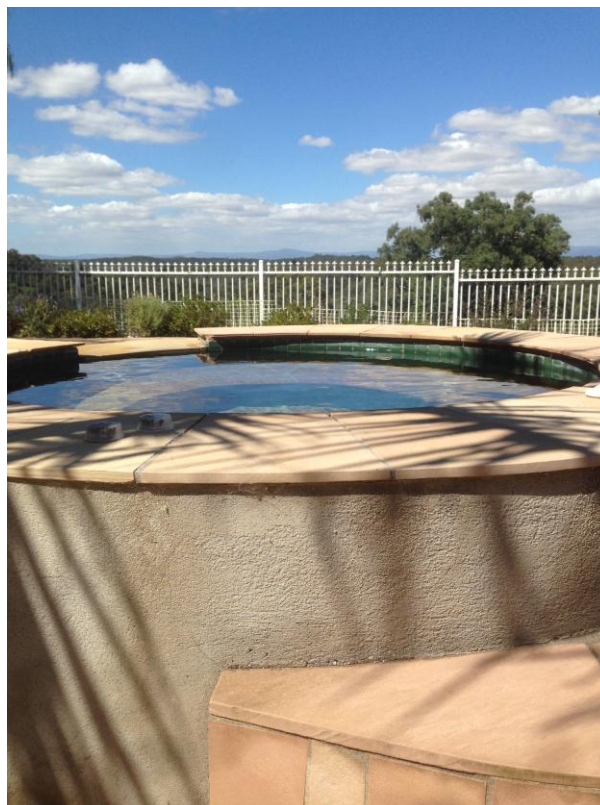
Where work hasn't started when the permit lapses, the RBS should:

- take notes and photos for their file.
- send a letter to the owner and registered builder advising that the

permit has lapsed, a new permit and building permit levy will be required, and no work on the swimming pool and safety barrier may proceed until the new permit is issued.

## Final inspection and completion

Once the building work is completed the person in charge of the building work must notify the RBS. The RBS will do a final inspection of the completed swimming pool or spa and safety barrier work. They need to be satisfied the work has been built according to the building permit. At the final inspection the RBS can ask for evidence of testing or ask for tests to be done to ensure the drainage system operates correctly, the barrier construction meets the structural design and that the gate or door operates properly (refer to the Technical version of this information sheet for more details).



## Site safety

Site safety should always be a priority during construction. There are three specific safety issues that need to be addressed when building a pool or spa and barrier, but overall site safety specific to the location should always be a priority.

### Before the permit is issued

Before the building permit is issued the RBS should specify any precautions the owner or registered builder has to take during construction<sup>8</sup>. This may include protection of any adjoining properties, members of the community and any dwelling occupants during the construction of the pool. You can read more about protection work in VBA practice note [2006-20](#) and [2007-58](#).

### After excavation work

Once excavation work for the pool is

finished, there is a potential for ground water or rainwater to fill the hole. Any amount of water can be a drowning hazard.

Where building sites are accessible from the street (such as a public reserve, another allotment or occupied house), the RBS can<sup>9</sup> stipulate safety precautions are put in place to prevent anyone not working on the site from gaining access. To do this the RBS can issue a direction<sup>10</sup> to the builder or owner to do additional work to make the site safe, or issue a building order for minor work.

<sup>6</sup> A building notice is issued when a person is not complying with the *Building Act 1993* and/or the *Building Regulations 2006*

<sup>7</sup> Where the works are deemed a danger to life or property and immediate action must be taken

<sup>8</sup> Consider the requirements of regulations 602, 603, 604 and 605

<sup>9</sup> See regulation 604(3)

<sup>10</sup> The direction is pursuant to Section 37 of the *Building Act 1993*

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## Temporary barriers

During construction, if the new pool is filled with water more than 300mm (30cm) deep it is categorised as a functioning pool and must have a temporary safety barrier placed around it. The temporary barrier must remain in place until a permanent barrier is installed.

Should a temporary barrier be removed before a permanent barrier is installed, the RBS or the municipal building surveyor can use the enforcement process under the Building Act and Regulations through the use of [notices and orders](#).

A temporary barrier should be installed if:

- The pool is prefabricated and filled on installation (for example, a fiberglass pool).
- The pool is in-ground and not self-draining. If the pool won't be maintained during construction rainwater can accumulate in the bottom (for example, concrete block or concrete sprayed pools).
- The pool is in-ground and needs to be filled on installation (for example, vinyl lined pools).
- The property where the pool is being built includes a dwelling that is occupied.

All other types of pools or spas shouldn't be filled with water before the RBS certifies that the permanent barrier is compliant (for example, above ground pools, inflatable pools, wading pools, portable spas). The RBS can ask for drawings on the building permit showing what precautions will be taken during construction. They can include a condition in the permit that requires the owner or builder to erect a compliant temporary pool barrier. This is especially important if the property owner is engaging separate pool and fencing contractors.

## Maintaining temporary barriers – whose responsibility is it?

Maintaining the barrier during construction depends on who (if anyone) is living at the property and who's responsible for the building site.

### Property owner not living on site

When the builder responsible for the work has vacant possession<sup>11</sup>, they must maintain the temporary pool barrier.

### Property owner is living on site

If there is anyone living at the property during the construction work, the builder who is responsible for the construction of the pool is responsible for maintaining the temporary pool barrier while they're on site. The occupant is responsible for maintaining the temporary barrier when the builder isn't on the site.

## Property owner is an owner-builder sub-contracting pool construction

Because an owner-builder is the contractor responsible for the work and site safety, they're responsible for installing and maintaining the temporary barrier until the permanent barrier is installed and the RBS has issued a certificate of final inspection.

Further information about water safety can be found at

[www.watersafety.vic.gov.au](http://www.watersafety.vic.gov.au)



If a temporary fence isn't installed, a building or emergency order can be issued by the MBS.



An example of a compliant temporary barrier that meets regulations

<sup>11</sup> Vacant possession is defined as no person living on the property