

# Building a pool

Before you plunge into building a pool, learn about selecting a licensed builder, local council requirements and your legal rights and obligations.

## Things to consider

### Local council

Talk to your local council about approval requirements in your area and any natural conditions that may affect your future swimming pool.

Since April 2013 backyard swimming pools and spas must be registered on the NSW Government's Swimming Pool Register. For more details visit the Office of Local Government website.

Properties with swimming and spa pools also need correct compliance documentation to be sold or leased in NSW. This does not apply to properties in strata or community schemes with more than 2 lots, or for any off-the-plan contract in a property sale. Visit our Swimming pools web page for more information.

### Geotechnical survey

A geotechnical survey will show possible rock or unstable foundation soil that can increase costs dramatically. Some builders have geotechnical consultants, or alternatively the Association of Consulting Engineers can recommend one. Ask about the cost before going ahead.

### Underground cables

Before digging, find out if there are any underground cables on your pool site (Dial Before You Dig, phone 1100). Get a copy of your site plan from your local council or water authority.

### Site considerations

The site plan will show the position of sewers, storm water, drainage systems and other utility pipes. Your pool cannot interfere with drainage systems or pipes - moving them will increase costs. Be aware that removing and disposing rocks and other materials can be expensive.

## Pool design

Select an appropriate pool for your site. Consider maintenance and the right equipment to use. Allow for future needs such as a shed, barbecue or clothes line.

## Approvals

Refer to your local council or private accredited certifier to determine who can approve your plans.

Also check legal requirements for a child-resistant barrier and tree preservation policies.

If power lines pass over or are close to your pool, contact Transgrid or your local electricity authority responsible for electricity line placements. They must be satisfied your pool is far enough from power lines and won't interfere with maintenance work.

## Choosing a pool builder

In choosing a pool builder, consider the following.

### Licence

If the work costs more than \$5,000, the person or company doing the work must hold a licence issued by NSW Fair Trading for building or swimming pool building. The name on the contract must be exactly the same as the name on the licence. Do a licence check on our website to find out if your builder's licence is valid and suitable for the work you want done. Or have a customer service officer check the licence details by calling us on 13 32 20.

### Quotes

Gain quotes from at least three builders. To compare them, the quotes should include the same pool equipment and all works, including moving any service lines and disposing of excavated materials and building debris. Also consider the substantial costs associated with landscaping.

### References

Inspect one or more pools built by your preferred builder and talk to the owners about their experiences working

with the builder. This is an important step in choosing the pool builder that's right for you.

## Insurance

### Insurance under the Home Building Compensation Fund

Your builder must give you an insurance certificate under the Home Building Compensation Fund. This must happen before you pay any money (including a deposit) and before work commences. This applies to any pool where the contract price is over \$20,000 or, if the contract price is not known, where the reasonable market cost of the labour and materials involved is over \$20,000. This is also required where a builder does work for an owner-builder.

The builder's name shown on the insurance certificate should be exactly the same as that on the building contract and the builder's licence.

Without insurance under the Home Building Compensation Fund, you are not covered for defective or incomplete work should your builder die, become insolvent or disappear.

Policies issued after 19 May 2009 also cover you where your builder's licence is suspended for failure to comply with a money order by a tribunal or court in your favour. Refer to the Home Building Compensation Fund page on the Fair Trading website for more information.

### Other insurance

It is also strongly recommended that you sight current contract works and public liability insurance policies covering your own and neighbours' properties. For your own protection, check that all the people you engage to undertake any part of your building project have the necessary insurances in place and that the certificates are current.

For more information, refer to our Insurance web page.

## Contract

By law, your chosen builder or tradesperson must give you a written contract for all residential building work, including swimming pools, if:

- the contract price is over \$5,000 (including GST), or
- the contract price is not known, is for the provision of labour and materials by the contractor the reasonable market cost of which is more than \$5,000 (including GST).

## Deposits and progress payments

The maximum deposit that you can be asked to pay is 10% of the contract price.

If the work is required to be covered by insurance under the Home Building Compensation Fund, it is illegal for the contractor to ask for a deposit or other payment under the contract, unless a valid certificate of insurance is given to you.

**Note:** The loss of any deposit paid by a home owner that exceeds the legal limit will not be covered by the Home Building Compensation Fund insurance policy for the project.

Progress payments are usually made at specific stages of a project and should equate to the value of work done. Never pay for work that has not been performed or pay any money exceeding what is required under the contract.

**Note:** The loss of any progress payment made by a home owner to a builder that exceeds the amount stipulated in the contract will not be covered by insurance under the Home Building Compensation Fund.

## Avoiding disputes

Prevent problems when your pool is being built by fostering positive communication with your builder or tradesperson.

Be business-like and put all messages or instructions in writing. This includes variations to the contract, which should be agreed by you in writing before they are carried out. These documents should be signed, dated

and provided to the builder. Keep a copy of all correspondence.

If a dispute arises, Fair Trading has a free dispute resolution process that may assist you. For more information, refer to our Resolving building disputes page.

## Notifying your insurer and making a claim

To safeguard your position under your Home Building Compensation Fund insurance policy, immediately notify your insurer in writing of a loss (eg. financial loss or damage) on becoming aware of defective or incomplete work.

If attempts to have work completed or rectified prove unsuccessful, you may be able to formally lodge a claim under your Home Building Compensation Fund insurance policy.

For more information about notifying your insurer of a loss or making a claim under the Home Building Compensation Fund, refer to our Home Building Compensation Fund insurance claims web page.

## Know the law

Be wary of builders who encourage you to become an owner-builder. They may be avoiding legal responsibility for the project.

If you become an owner-builder, you take on full legal and financial responsibility for the project. Do not take this step lightly. You will be unable to take out insurance under the Home Building Compensation Fund. For more information, refer to our Becoming an owner-builder web page.

Be aware that if you coordinate two or more contractors to build the pool (eg. excavator, concreter, plumber, tiler etc) and the work is valued at more than \$10,000, you will need an owner-builder permit.

Also, be wary of builders who use several different contracts of under \$20,000 for one job. They may

be avoiding their insurance obligations under the Home Building Compensation Fund.