

Building a pool

A swimming pool can be the entertainment centre of your home. Selecting a licensed builder, checking local council requirements and understanding your legal rights and obligations are just some of the factors you must take into account before taking the pool building plunge.

Things to consider

Local council

Talk to your local council about any 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 Division of Local Government website.

Geotechnical survey

Consider getting a geotechnical survey. It 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 what the survey will 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. Also be aware that the removal and disposal of rocks, and other materials can be very expensive.

Pool design

Select an appropriate pool for your site. Consider maintenance and the right equipment to be used. 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, you will need to contact Transgrid or your local electricity authority responsible for electricity line placements. The electricity authority must be satisfied your pool is a sufficient distance from power lines and won't interfere with maintenance work.

Choosing a pool builder

In choosing a pool builder, consider the following.

Licence

The licence must be issued by NSW Fair Trading and be for building or swimming pool building. The name on the contract must be exactly the same as the name on the licence.

Licence check

You can do an online licence check on the Fair Trading website to find out if your builder's licence is valid and suitable for the work you want done. Alternatively, call 13 32 20 and a customer service officer will check the licence details for you.

Quotes

It's advisable to get quotes from at least three builders. For an accurate comparison, 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

Home warranty insurance

Your builder must give you a home warranty insurance certificate for any pool where the contract price is over \$20,000 or, if the contract price is not known, the reasonable market cost of the labour and materials involved is over \$20,000, before you pay any money (including a deposit) and before work commences. This requirement also applies 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 home warranty insurance, 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 of a tribunal or court in your favour. Refer to the Home warranty insurance page on the Fair Trading website for more information.

It is recommended that prior to making any payment under your contract, you check the validity of the certificate of home warranty insurance by contacting the home warranty insurer whose contact details appear on the certificate. Refer to the Approved insurance agents and Past approved insurers pages 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.

Refer to the Insurance page on the Fair Trading website for more information.

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 \$1,000 (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 \$1,000 (including GST).

Jobs worth between \$1,001 and \$5,000 require a written 'small jobs' contract with minimum basic information, while building jobs worth more than \$5,000 must be covered by more extensive written contracts.

Refer to the Contracts page on the Fair Trading website for more information about small job contracts and contracts for work worth over \$5,000.

Deposits and progress payments

There is a maximum deposit that you can be asked to pay. If the contract price is:

- \$20,000 or less, you cannot be asked to pay over 10% of the contract price as a deposit
- more than \$20,000, you cannot be asked to pay over 5% of the contract price as a deposit.

If the work is required to be covered by home warranty insurance, it is illegal for the contractor to ask for a deposit or other payment under the contract, unless home warranty insurance has been taken out, and a certificate of the insurance is given to you.

Note: The loss of any deposit paid by a homeowner that exceeds the legal limit will not be covered by the home warranty 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. Under no circumstances should you agree to pay for work that has not been performed or pay any money in excess of that 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 the home warranty insurance policy for the project.

Avoiding disputes

An effective way of avoiding problems when your pool is being built is to develop and maintain positive communication with your builder or tradesperson.

You should always be business-like when dealing with your builder. This includes putting all messages or instructions in writing including 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. Make sure you keep a copy of all correspondence.

If a dispute arises, NSW Fair Trading has a free dispute resolution process that may be able to assist you. For more information, refer to the Resolving building disputes page on the Fair Trading website.

Notifying your insurer and making a claim

In order to safeguard your position under your home warranty insurance policy, you should immediately notify your home warranty insurer, in writing, of a loss (eg. financial loss or damage) on becoming aware of defective or incomplete work.

In the event that attempts to have work completed or rectified prove unsuccessful, you may be able to formally lodge a claim under your home warranty insurance policy.

For more information about notifying your insurer of a loss or making a claim under a home warranty insurance policy, refer to the Home warranty insurance claims page on the Fair Trading website.

Know the law

Be wary of builders who encourage you to become an owner-builder. This may be a way of passing on the responsibility for the project to you.

If you become an owner-builder, you will be taking on full legal and financial responsibility for the project and this step should not be taken lightly. You will be required to take out home warranty insurance if you sell the home within 6 years. For more information, refer to the page or publication titled *Becoming an owner builder* on the Fair Trading website.

Be aware that if you engage two or more contractors to build the pool (eg. excavator, concreter, plumber, tiler etc), you become the co-ordinator of the work and you need to hold a building licence or an owner-builder permit to do this.

Also, be wary of builders who use several different contracts of under \$20,000 for the one job. This may be their way of trying to avoid their home warranty insurance obligations.