

COUNCIL FREQUENTLY ASKED QUESTIONS AND EXAMPLE RESPONSES

BACKGROUND

Q. Why were these regulations introduced?

The Victorian Government introduced the new requirements to improve the safety of private swimming pools and spas and save young children's lives.

Between January 2000 and May 2019, there were 27 fatal drownings of young children in home swimming pools or spas. In at least 20 of those cases, the coroner found the safety barrier was non-compliant and that this non-compliance is likely to have played a role in the fatal drowning.

Additionally, for every fatal drowning of a young child in a private swimming pool there are approximately 6 non-fatal drowning incidents, many leaving the children involved with long-term impairments.

Q. My swimming pool met all safety standards when it was installed, why do I have to do this?

Although new swimming pools and their safety barriers are inspected as part of the building permit process, this is only a point-in-time check. Like most structures, safety barriers are subject to gradual deterioration through ordinary use and exposure to the elements. For example, a lack of appropriate maintenance can result in hinges and latches used in a gate or door forming part of the barrier to rust, jam or otherwise fail to ensure that the gate automatically closes. Additionally, the compliance of the barrier can be impacted by the growth of nearby foliage, alterations to the building or surrounding landscaping, or even placement of items such as sheds and BBQs against the barrier.

The fact that a barrier was compliant at the time of construction is no guarantee that it will remain so. The evidence shows that most swimming pool and spa safety barriers across Victoria are non-compliant and therefore potentially no longer effective in restricting access by young children to the pool area.

Q. Will I be required to upgrade the barriers around my pool or spa?

No. The Building Regulations 2018 only require owners to ensure that the safety barrier complies with the law that applied at the time the barrier was constructed or last altered. For example, if the pool or spa was constructed in 2004, then the owner of that pool or spa will only be required to ensure the barrier complies with the Australian Standard that was in force in 2004.

Q. We do not use our pool – do we still need to comply?

The requirements to register your swimming pool and/or spa with council and ensure that you have a compliant safety barrier in place apply regardless of how frequently it is used. If you do not use your swimming pool/spa, you may consider decommissioning it so that the safety barrier requirements are

no longer applicable. You can contact the Victorian Building Authority for advice on appropriate options for decommissioning your pool or spa via email at customerservice@vba.vic.gov.au.

Q. Why should pool and spa owners who don't have kids have to pay for certification?

This is an issue that affects all Victorian pool and spa owners, not just those with kids. At least 12 of the 27 drowning deaths took place at a property where the child was not a resident. One took place at a neighbouring property the child had got inside without the knowledge of the pool owner. The long-standing safety barrier laws apply to all private swimming pools and spas regardless of the identity of the persons living at the property.

Q. Why do I have to fence my pool when there are ponds, rivers and lakes that have no safety barrier?

The pool registration requirements expand upon long-standing laws under the *Building Act 1993* that require swimming pools and spas to have a compliant barrier in place. These obligations do not apply to natural bodies of water, such as rivers, lakes, dams and ponds. The evidence is clear that private swimming pools and spas are the most common location for drownings of young children.

Q. Why is the government doing this in the middle of a pandemic?

What is happening in Victoria and around the world is challenging us all and it is a difficult time for many people. As a result, the Victorian Government took action to postpone the deadline for registration until 1 November 2020. In addition, the deadlines for owners to lodge their first certificates of compliance were also extended by five months.

Q. Where can I go to find more information about the requirements?

For more information, please visit the Victorian Building Authority website at www.vba.vic.gov.au/consumers/swimming-pools (or council's website if applicable).

REGISTRATION REQUIREMENTS

Q. What steps do I need to take to register, and by when?

Owners must apply to register their swimming pool and/or spa with council before 1 November 2020. Applications to register pools and spas constructed after 1 November 2020 must be submitted by the owner within 30 days from receipt of the relevant occupancy permit or certificate of final inspection.

After registering, we will confirm the date of construction of your swimming pool or spa, and the applicable technical standard that your safety barrier is required to comply with. We will also inform you of the relevant date by which you need to organise an inspection of your safety barrier and lodge a certificate of barrier compliance with us.

Q. Why do I have to register my pool/spa if the council already knows I have one?

While some councils may already have records of swimming pools or spas on particular properties, they are required to record more information on their registers than just the existence of a pool or spa. Councils are unlikely to have ready access to the complete set of information that is required to be kept on the register. The registration process enables this information to be collected by the council.

REGISTRATION FEES

Q. How much does it cost to register my swimming pool and/or spa?

A registration fee must be paid to the Council upon applying to register a swimming pool or spa. The maximum registration fee that councils may charge is \$31.80 (in 2020-21FY). Councils can also charge an information search fee for applications to register existing pools and spas (maximum \$47.20 in 2020-21FY). This fee reflects council costs to work out the date of construction of *existing* pools and spas.

Together, the registration fee and information search fee total a maximum upfront cost of \$79. The registration fee (and information search fee if applicable) only needs to be paid once as registration lasts until the pool is no longer in existence.

Q. What is the information search fee for?

The information search fee allows councils to cover the costs of their administrative efforts to source information relevant to determining the date of construction of pools and spas. An example of this is reviewing building approval records to identify all building work on the property that may have resulted in a change to the pool safety barrier as part of the council's determination of the date of construction.

Q. Why do I have to pay fees to register my pool/spa?

The Building Regulations 2018 prescribe maximum registration and information search fees that councils may charge for an application to register an existing pool or spa. The fee levels were set to enable councils to recover the administrative costs involved in establishing their registers, processing registration applications and determining dates of construction. The fees not only reflect councils' costs in setting up and maintaining their registers, but also their administrative efforts to source information.

INSPECTION AND CERTIFICATION

Q. How often do swimming pools and spa safety barriers need to be inspected?

The regulations require that pool and spa safety barriers are inspected and certified as compliant every four years.

Q. When does the first inspection and certification of my existing pool or spa safety barrier need to be completed by?

The date by which a barrier must be first inspected and certified as compliant depends on the date of construction of the pool or spa as determined by council. We will let you know which is the relevant date when we write to confirm your registration.

Date of construction of pool or spa	Date by which first certificate must be lodged with council
30 June 1994 or earlier	1 November 2021
Between 1 July 1994 and 1 May 2010	1 November 2022
1 May 2010 or later	1 November 2023

For any newly constructed pool or spa, the first certification of the barrier occurs as part of the building permit process.

Q. How much will it cost to have an inspector/surveyor inspect and certify the safety barrier?

Fees charged by building surveyors and inspectors are not regulated, as most of these services are provided by private businesses. Individual practitioners or businesses will charge different rates for their services. Owners should satisfy themselves that they are getting the best value for money before engaging a specific inspector.

The first inspection and certification of your safety barrier must be completed by 1 November in either 2021, 2022 or 2023, with the applicable year depending on the date of construction for your pool or spa as determined by your council. Owners should seek multiple quotes when the appropriate time comes. The Regulations also recently introduced a new class of registered building practitioner – building inspector (pool safety). The introduction of this new class will increase the number of practitioners able to certify pool and spa barriers and provide more market competition that should assist in lowering the cost of inspections.

Q. Where can I find a list of inspectors?

The Victorian Building Authority website has a search function for current registered building practitioners. Any practitioner that is registered as a building surveyor or building inspector can inspect your safety barrier and certify its compliance.

Q. What if the inspector/surveyor finds a problem with my swimming pool or spa safety barriers?

If the surveyor or inspector determines that the safety barrier is non-compliant, there are two processes that may occur:

- Inspector provides the owner with a period of time to make the barrier compliant before reinspecting; or
- Inspector issues a certificate of pool and spa barrier non-compliance and lodges it with council for them to action.

MISCELLANEOUS

Q. How will the proposed regulations impact relocatable pools?

The proposed requirements will require owners of land with a relocatable swimming pool or spa to register the pool or spa with the relevant council from 1 November 2020. However, the requirement to register a relocatable pool or spa only takes effect after it has remained erected for 3 consecutive days. Following registration, the relocatable pool or spa barrier must be inspected and certified as compliant within the period specified by council (which must not be more than 30 days after the date it was registered).

Q. How does the scheme deal with swimming pools and spas on properties subject to a residential tenancy agreement?

The landlord/owner will be required to register the pool or spa and organise certification of the barrier.

Q. Who is responsible for swimming pools and spas in apartment buildings and multi-unit dwellings?

In cases where a swimming pool or spa is located on common property, the obligations under the scheme will attach to the owners corporation.

Q. What if I don't want to have this private information stored on a council register - are there any privacy concerns?

The private details of pool and spa owners will be protected. Councils may only provide information from the register regarding a specific property to the property owner, occupier or the inspector engaged by the owner. The council must also provide information to the Victorian Building Authority upon request. However, the Authority must not publish any personal details or the specific locations of any pools or spas.