

# Annual General Meeting

11<sup>th</sup> November 2015



# Housekeeping, Introductions & Apologies

## Brendan Watkins, SPASA CEO

# President's 2015 Report & Introduction of the 2015/16 Board & Executive

## R.Kruber

2015/16 BOARD : Member	Company
John D'Arcy (President)	Award Pools & Spas
Callum Ross (Vice President)	Astral
Lindsay Hartshorne (Treasurer)	Lincoln Pool Equipment
Ted Martin	Compass Pools Victoria
Rob Kruber	Spa Industries
Gary Kilworth	Out from the Blue
Greg Op de Coul	Davey
Tim Neish	Kew Swimming Pools
Brendan Nelissen	Waterco
James Hutchins	The Pool Enclosure Company
Grant Symes	Protector Aluminium



# Treasurer's Report FY/2015

**Net Surplus / Profit FY/15 \$58,599**

**Gross revenue FY/15 \$2,060,320**

Gross revenue FY/14 \$1,952,750

**Retained Earnings FY/15 \$1,030,822**

Retained Earnings FY/14 \$972,223

Retained earnings exceed \$1,000,000 for the first time

Invested \$30k+ on the “Lifetime of Memories”  
TVC & airing cost

Spend \$30k rebuilding the SPASA Website,  
Expo site & Online Contract System

Invested \$18k on Builder Contract redrafting

Spent \$20k on Lobbying/Consultancy, mainly  
around Planning Minister / VBA representations

Jarrold Edwards | Director of Technical and Regulation  
Victorian Building Authority | Goods Shed North, 733  
Bourke Street, Docklands 3008 | GPO Box 536,  
Melbourne 3001  
web: [www.vba.vic.gov.au](http://www.vba.vic.gov.au)



# Swimming Pool and Spa Installation

The current regulatory requirements under the  
Building Act 1993

# What is the VBA?

**Established on 1 July 2013, the Victorian Building Authority replaced the Building Commission and the Plumbing Industry Commission.**

The VBA's key roles include:

- Undertaking audits, inspections and investigations to monitor and enforce compliance with building and plumbing legislation
- Investigating the conduct of building and plumbing practitioners
- Supporting the work of the Building Practitioners Board, which is responsible for registering and disciplining building practitioners
- Working with relevant agencies and regulators to ensure building and plumbing works are compliant and that consumers are protected
- Participate on behalf of Victoria in the development of national building and plumbing standards.

# Domestic building framework – who does what?



- Sets policy
- Advises the Minister



- Monitors and enforces compliance with the Building Act (in partnership with councils)

**Building**  
Practitioners Board

- Registers and disciplines building practitioners



- Advises consumers on their rights and responsibilities
- Manages the Building Advice and Conciliation Victoria function

# Enforcement responsibilities of VBA and local councils

## Role of the VBA

*“...to monitor and enforce compliance with the Building Act and the [building and plumbing] regulations” (under Section 197 of Building Act 1993)*

## Role of local councils

*“The administration and enforcement of Parts 3, 4, 5, 7 and 8 of the Act and the building regulations in its municipal district” (under Section 212 of Building Act 1993)*

*Part 3 – Building Permits*

*Part 4 – Inspection of Building Work*

*Part 5 – Occupation of Buildings and Places of Public Entertainment*

*Part 7 – Protection of Adjoining Property*

*Part 8 – Enforcement of Safety and Building Standards*

# Requirements for the installation of swimming pools and spas and associated barriers

The current *Building Act 1993* and the *Building Regulations 2006* contain the following requirements for practitioners:

- Registered in the appropriate category
- Enter into a domestic building contract for works in excess of \$5000 (including labour and materials)
- Ensure a building permit, issued by a registered building surveyor, is in place and carry out works according to the permit
- Provide the owner with proof of domestic building insurance for works in excess of \$16,000.

# Registration requirements

- To install a **swimming pool or spa** a practitioner must be registered as either:
  - Domestic Builder-Unlimited (DB-U), or
  - Domestic Builder-Limited Swimming Pools (DB-L S)
- To install a **swimming pool or spa safety barrier** a practitioner must be registered as either:
  - Domestic Builder-Unlimited (DB-U), or
  - Domestic Builder-Limited Swimming Pools (DB-L S), or
  - Domestic Builder-Limited Fencing and Gates (DB-L G)
- An unregistered sub-contractor can be employed by a registered builder.
- It then becomes the responsibility of the registered builder to ensure that all the sub-contractor's building work complies with the approved building permit.

# Building permit requirements

- A building permit, issued by a registered building surveyor, must be obtained to construct a pool or spa and the associated safety barriers.
- An application for building permit must include sufficient information to demonstrate the building works will comply with the Act and Regulations.
- Construction work cannot commence until a building permit has been issued and work must be carried out in accordance with the approved building permit.
- An application for a building permit can be made by the owner or, where authorised as the agent for the owner, by the builder.

## Practice Note 2014-62 Issued April 2014

### Documentation Required for Applications for Building Permits

Reference to the Building Code of Australia (BCA) in this Practice Note means Volume One and Volume Two of the National Construction Code Series.

#### 1. PURPOSE

The purpose of this Practice Note is to advise persons submitting an application for a building permit of the minimum standard of documentation required and the importance that the documentation contains sufficient information and is of sufficient quality to enable assessment by the Relevant Building Surveyor (RBS) for compliance with the Building Act 1993 (the Act), the Building Regulations 2006 (the Regulations), the BCA, referenced Australian Standards and other associated legislative requirements.

#### 2. INTRODUCTION

Section 24(1)(a) of the Act states that the RBS must not issue a building permit unless he or she is satisfied that the building work and the building permit will comply with the Act and the Regulations. In order to do this, the RBS must assess and determine that the information contained in a building permit application demonstrates compliance with the Act, the Regulations and the building work if constructed in accordance with the approved documentation.

Part 3 of the Regulations establishes the minimum documentation requirements for an application for a building permit that is to be submitted to the RBS. It may be the case that more than the minimum documentation required under Part 3 will be necessary to enable the RBS to make the assessments. As the approval authority, the RBS must not supplement or augment the application of design documents by either participating in or preparing designs or submissions or by correcting errors or by making assumptions as a consequence of poor quality documents. For example:

The documents provided to the RBS must be, but not limited to:

- a) Clearly document (in the plans) all calculations of building areas, site areas, site coverage, floor areas, building heights, habitable rooms, windows and secluded private open space on adjoining allotments in order to enable the RBS to determine compliance with Part 4 of the Regulations.
- b) In the case of plans or drawings, contain all necessary notes, specifications and analysis necessary to enable the RBS to determine compliance with the Act, the Regulations and the BCA. These may include notes in relation to the construction of sanitary compartments, location of smoke alarms or a glazing calculation.
- c) Contain full details of any Alternative Solution proposed - see Practice Note 2014-

# Domestic building insurance requirements

- The registered building practitioner must provide the owner with proof of domestic building insurance for all building work with a cost of more than \$16,000.
- This is to cover the homeowner if the builder:
  - dies,
  - disappears, or
  - becomes insolvent.
- The builder must give the homeowner a certificate of currency for the insurance before they take a deposit and start work.

# Owner builder requirements

- If the builder is undertaking work for an owner-builder, the builder must ensure that:
  - the owner-builder has obtained a certificate of consent from the Building Practitioners Board (where cost of building work is in excess of \$12,000, including labour and materials)
  - a building permit has been issued to the owner before commencing works
  - he/she is registered (to undertake works valued in excess of \$5000)
  - enters into a major domestic building contract with the homeowner
  - provides proof of domestic building insurance (where the cost of work exceeds \$16,000).
- The owner-builder takes on all the responsibility for obtaining the relevant permits, supervising the building work and ensuring that it is carried out in accordance with the building permit.

# Safety barrier requirements

- During construction of a pool or spa, it is the responsibility to ensure that the persons are protected from risks associated with the building work [s23 OHS Act 2004].
- Where water is placed in a pool or spa, prior to the construction of the permanent safety barrier, a temporary barrier must be provided around the pool or spa.
- The owner may engage the builder constructing the permanent safety barrier to provide and maintain a temporary barrier. It is encouraged that the responsibility for any temporary works is outlined within the associated building contract.
- Once construction is completed it becomes the property owner's responsibility to ensure that the permanent safety barrier remains in place and is properly maintained.
- The permanent safety barrier must be constructed and maintained in accordance with the relevant Australian Standard (AS 1926.1).

# Looking forward...

- The current Government has foreshadowed reforms to the current building legislation (Building Act 1993) to include:
  - New registration and re-registration requirements
  - Enhanced enforcement powers for VBA (direct practitioners to do something)
  - Improved oversight of building surveyors and the permit system.
- The current regulations are due to sunset in 2016:
  - Regulatory Impact Statement (RIS) is expected to be released for public consultation soon

# In the meantime....

The VBA is working to enhance its:

- processes around the registration and licensing of practitioners (including standard of information available to applicants)
- inspection activity and current field-based compliance program
- relationships with local councils, so each entity is clear on their respective administration and enforcement responsibilities
- IT capabilities and business processes more broadly
- standard of building information available to consumers (jointly with CAV).

# VBA website

The screenshot shows the VBA website homepage. At the top left is the VBA logo (VICTORIAN BUILDING AUTHORITY). To the right are utility links: eToolbox, Find a Practitioner, and Subscribe. Below these is a search bar and font size controls (A+, A-). A horizontal navigation bar contains: Consumers, Practitioners, Disputes & Resolutions, Fees & Payments, Media, A-Z Information, and About.

The main content area features a large banner image of a city skyline with the text "Regulating for a quality built environment in Victoria." Below the banner is a grid of four content blocks:

- Audit of cladding on high rise buildings**: Includes a paragraph about ongoing updates and a "Read more" button.
- Statutory Boards**: Lists Building Appeals Board, Building Practitioners Board, and Building Regulations Advisory Committee, with an "About the VBA" button.
- Building**: Lists A-Z Information, Owner-builder, and Practice notes, with a "Building Info" button.
- Plumbing**: Lists A-Z Information, Compliance certificates, and Technical solution sheets, with a "Plumbing Info" button.

At the bottom of the main content area is a blue banner for "Scheduled VBA website maintenance" with a "Read More" button. On the far right of this banner are navigation arrows (right, left, and a double bar icon).

# Contact us

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Goods Shed North  
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Docklands VIC 3008

P.O Box 536  
Melbourne VIC 3001

T | 1300 815 127

E | [technicalenquiry@vba.vic.gov.au](mailto:technicalenquiry@vba.vic.gov.au) or  
[customerservice@vba.vic.gov.au](mailto:customerservice@vba.vic.gov.au)

# Brendan Watkins



## Discussion Toward a Safer Pool Barrier Process : During Construction

### Concrete Pools - Current

		Inspection				Inspection	
Permit	Excavation	Steel Fixing				Compliant Barrier	Water Filling
Construction Site							
Temporary OHS Site Barrier							Warranty/Ins Commences
							Handover to Consumer

### Fibreglass Pools - Current

		Water Filling				Inspection	
Permit	Excavation	Backfill Shell		Handover to Consumer	Contract Fulfilled	Compliant Barrier	Warranty/Ins Commences
Construction Site - Pool Construction				Construction Site - Landscaping, Paving, Barrier Install			
Temporary OHS Site Barrier							
Pool Builder Control of Work Site				Home Owner Control of Work Site			

### Fibreglass Pools - Proposed

		Water Filling		Inspection		Inspection	
Permit	Excavation	Backfill Shell		Handover to Consumer	Contract Fulfilled	Compliant Barrier	Warranty/Ins Commences
Construction Site - Pool Construction				Construction Site - Landscaping, Paving, Barrier Install			
Temporary OHS Site Barrier				"Pool Construction Barrier" # Installed by builder			
Pool Builder Control of Work Site				Home Owner Control of Work Site			

Builder Permit Applications to Include  
Mandatory "Owner Consent Form"  
for final Compliant Barrier

> This new inspection triggers max 120 days  
to finalise Compliant Barrier  
> Pool cannot be used until final Inspection

# "Pool Construction Barrier" To be defined: a more rigid, higher, sandbagged &  
non-climbable - ultimately safer "non-permanent" barrier

### Main features of proposal –

- > Introducing 2 inspections for f/glass – the first triggering a 120 days (max) countdown to completion of Compliant Barrier
- > Introducing a mandatory f/glass Owner Consent at Permit Application phase, to legally bind the owner to complete the Final Barrier within 120 days of 1st inspection
- > Introducing a new f/glass "Pool Construction Barrier" (needs to be fully articulated) – but a high grade safety barrier - mid-point between "Temp" & "Final/Compliant"
- > Builders Warranty / Insurance should commence at the 1<sup>st</sup> Inspection / consumer handover phase

Mandatory pre-registration education (Cert IV), RPL & CPD  
Reduction of number registrations

Fibreglass v Concrete Barriers: temp / construction / permanent

Volume Owner Builders operating in industry / Kit Pools (sold as a kit, then installed by unregistered contractors) / Registered Builders offering a "no frills" owner builder installation

Aligning house & pool permits (ie: making both 2 years from commencement) &

Mandatory Barrier Inspections

# Peter Micevski & Greg Bush from Rigby Cooke Lawyers Overview of the multiple enhancements and changes made to the SPASA Contract

Contracts to be published - Jan 2016

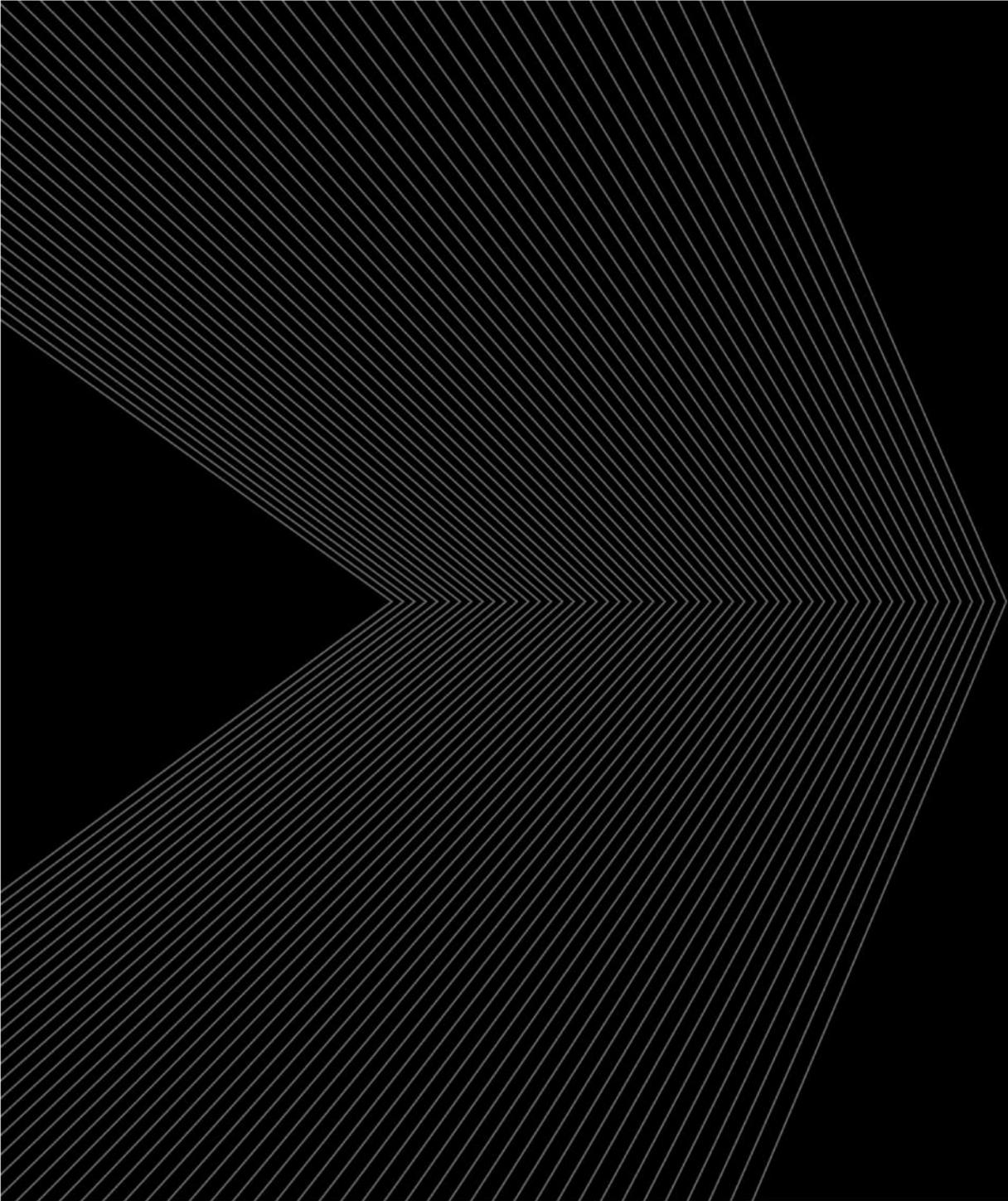
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**RIGBY COOKE** LAWYERS

# Changes to the SPASA 'Domestic Building Contract for the Supply and Construction of a Concrete Swimming Pool/Spa'

## Presentation

*Wednesday, 11 November 2015*

*Presented by:*

*Greg Bush & Peter Micevski*



# **Changes to the SPASA 'Domestic Building Contract for the Supply and Construction of a Concrete Swimming Pool/Spa'**

## **Who we are, what we do**

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- Rigby Cooke Lawyers construction and projects team

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# Changes to the SPASA 'Domestic Building Contract for the Supply and Construction of a Concrete Swimming Pool/Spa'

## The importance of a Contract

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### East West link

November 2014 – Daniel Andrews to the ABC

- "...the contract is not worth the paper it's written on."

April 2015



## Changes to the SPASA 'Domestic Building Contract for the Supply and Construction of a Concrete Swimming Pool/Spa'

### What has changed and why?

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- Significant changes
  - to conform with the requirements of the *Domestic Building Contracts Act 1995 (Vic)*(**DBCA**)
  - to provide additional protections to the Builder
- Minor changes
  - to provide greater clarity for Builders
  - to make the Contract easier to follow

## Significant changes

## Newly defined terms

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- Commencement Date
- Completion
- Completion Date
- Event of Default
- Foundations Data
- Handover Certificate



## Significant changes

### Foundations Data

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- Under the previous form of Contract, Foundations data was listed as an exclusion
- DBCA requires the Builder to obtain and give to the Building Owner foundations data before entering into a Contract
- Consequences for a Builder for non-compliance
- Exceptions to the rule



## Significant changes

### Completion

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- What's new?
  - Definition of 'Handover Certificate'
  - Builder must instruct the Building Owner on the maintenance of the swimming pool and its related equipment
  - Builder must provide the Building Owner the operation instructions and manuals
  - Swimming pool must be filled and operational
  - Deemed completion in certain circumstances

## Significant changes

### Completion – Fibreglass Contract

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- Builder to provide temporary safety barriers for 4 weeks after the issue of the Handover Certificate
- Building Owner's responsibility to erect permanent safety barriers



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## Significant changes

### Termination

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- What's new?
  - Building Owner must first issue a Notice of Default and allow the Builder a reasonable period to rectify the default
  - Building Owner's grounds for termination have been limited
  - Termination for convenience



## Significant changes

### Excavated material

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- Builder's can now claim the cost and time to remove, treat and/or dispose of contaminated material as a variation



## Significant changes

## Cost escalation clauses

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- What are they?
  - A warning to the Building Owner
- Why are they needed?
  - To ensure compliance with section 15 of the DBCA
- What do you need to know about them?
  - They must be initialled or signed
  - Consequences for not having them

## Other changes

### Building Owner Indemnities

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- Building Owner responsible for incorrect set-out if the Building Owner provided the Builder with the relevant information



## Other changes

### Building Owner supplied materials

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- Warranties that those materials are fit for purpose
- Builder takes no responsibility for and has no liability for any defects caused by those supplied materials



## **Other changes**

### **Changes in law and impact on costs**

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- If there is a change in law or in tax, the Builder is entitled to recover an increase in the Builder's costs to perform the works if the Builder could not have foreseen the change at the date the Contract was entered into

## **Other changes**

### **GST**

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- GST clause has been added
- The Contract Price should be exclusive of GST, unless it is expressed to be GST-inclusive

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## Other changes

### Diving

---

- Clause which states that the swimming pool is not suitable for diving



## **Other changes**

### **Relocation of information**

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- Definitions section has been moved to the back of the Contract
- Exclusions have been brought forward to the Contract Details section
- Signing clause has been moved to the end of the Contract Details section

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## Changes to the SPASA 'Domestic Building Contract for the Supply and Construction of a Concrete Swimming Pool/Spa'

Group discussion

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## Further queries

## Contact Details

---

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# HAVE YOUR CAKE *and sell it too*

The 7 key ingredients  
of business success

SPASA AGM

Jason Cunningham



# THE PRACTICE





THE **LIVING ROOM**



GE Money

**medibank**  
For Better Health

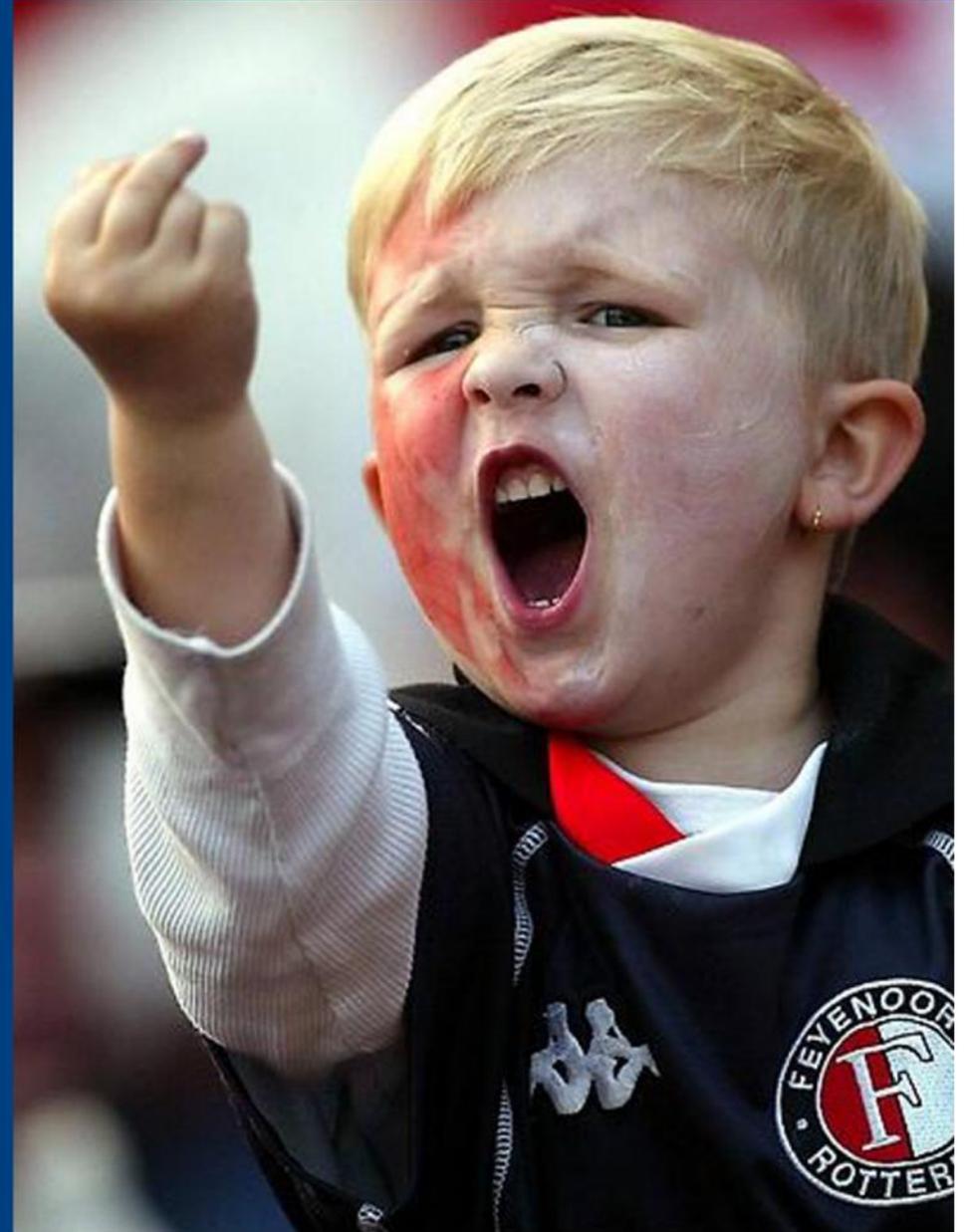


**KEY PERSON**  
OF *Influence*

australian  
**anthill**



# EXPERIENCE V OPINION



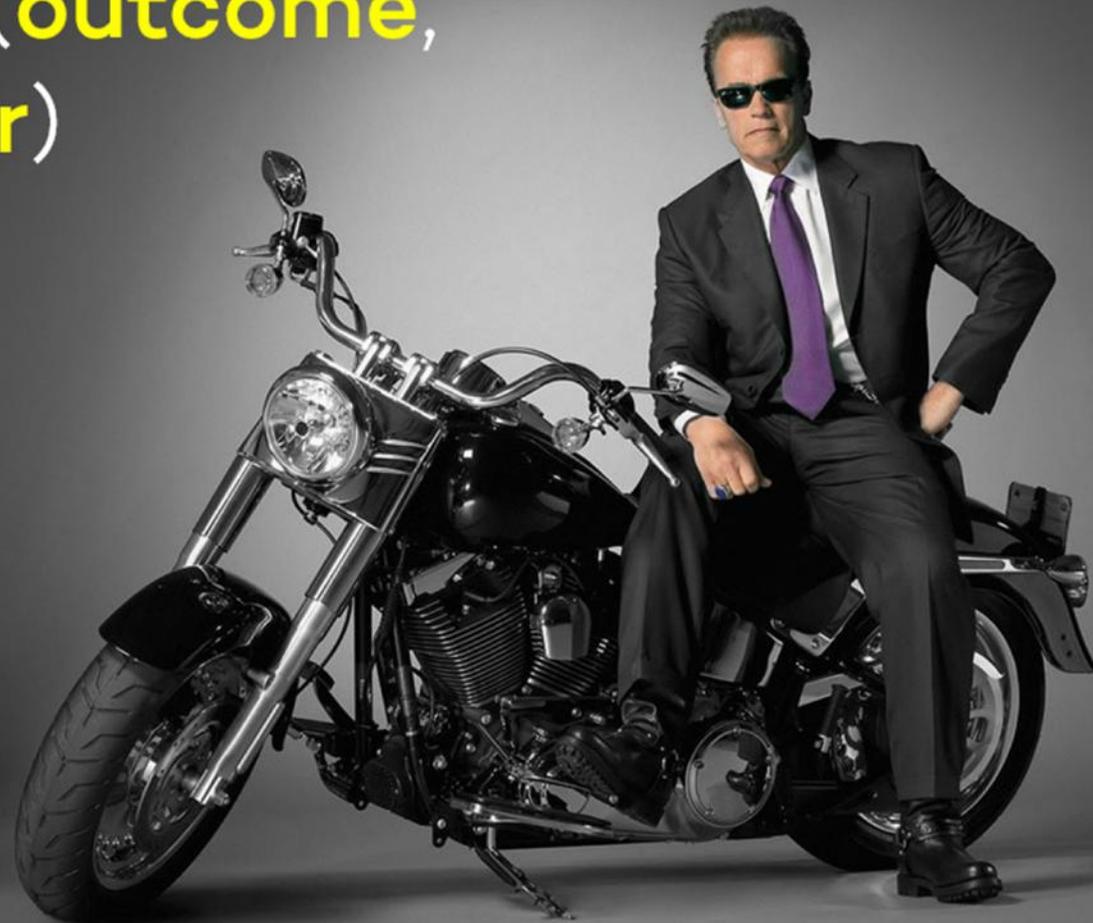


I got my **biggest business lesson** while I was still at school...



# Rogue Accountant

Why your finances  
come *last* (**outcome**,  
not a **driver**)





**WHY**

**DID YOU  
GO INTO  
BUSINESS**

**?**

SO...

HOW'S THAT  
WORKING  
OUT FOR

YOU?





**BUSINESS IS  
TOUGH**

# TOP 5 REASONS **SMEs FAIL**

- 32% Poor financial management
- 15% Bad management in general
- 12% Poor record keeping
- 12% Poor economic conditions**
- 11% Problems with sales & marketing



**CONGRATULATIONS**  
*on making it this far!*

# TOP 5 BUSINESS BARRIERS

1. Your lifestyle supports the business
2. Just make enough to survive
3. Business relies on you
4. Fear of the unknown
5. Short term 'survival' thinking



What do I  
mean by...



*7 key ingredients of*  
**SUCCESS**





**FOR SALE**

**Strategy**

**Understand yourself**

**Customers**

**Ca-ching**

**Execution**

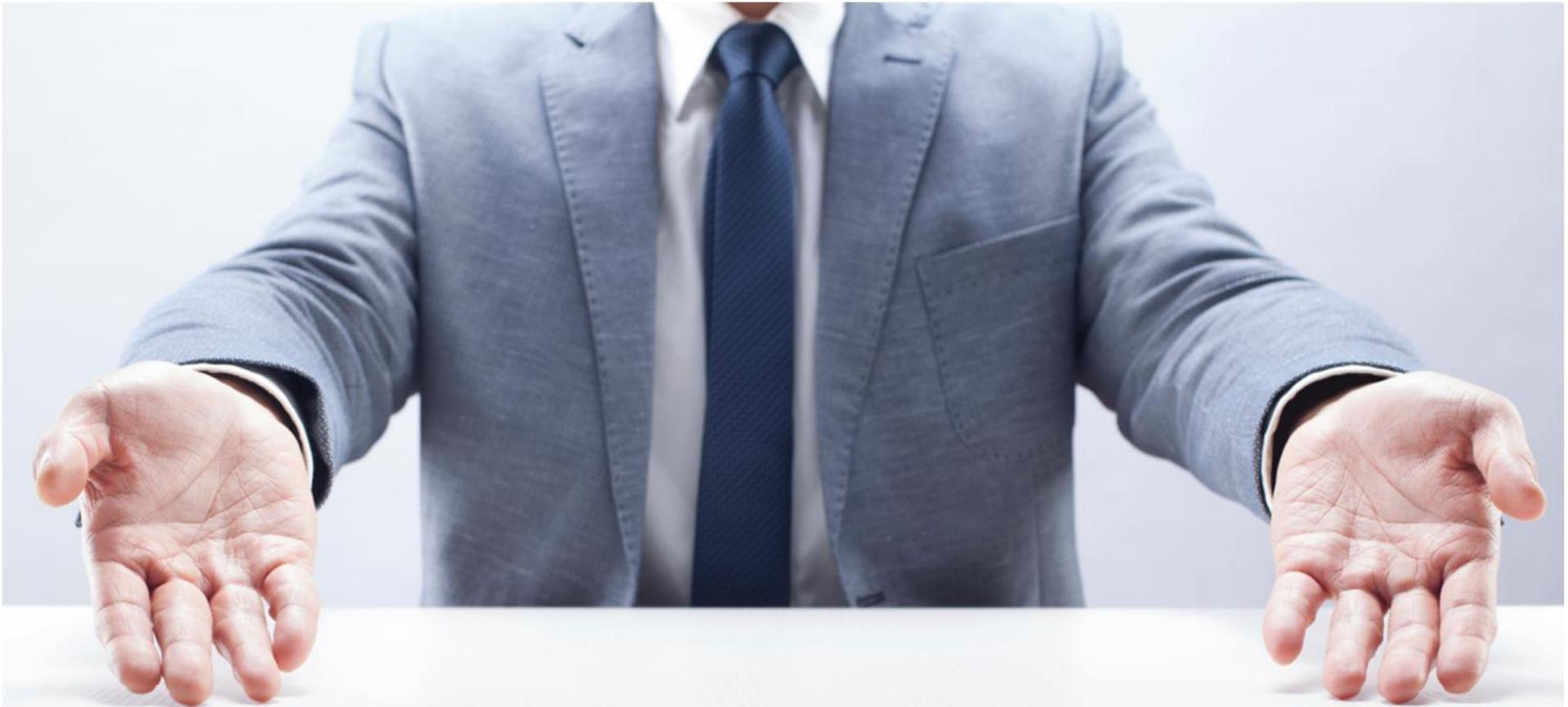
**Sack yourself**

**Sell**

A person in a dark suit and white shirt has their hands clasped together in a gesture of agreement or strategy. Below their hands is a chessboard with various pieces, including pawns, knights, and kings. The background is dark, making the hands and chess pieces stand out.

**S**UCCESS

# 1. STRATEGY



# 'SELL' MINDSET

Even if you don't intend to sell...



SUCCESS

## 2. UNDERSTAND YOURSELF

# WHAT DEFINES YOUR BUSINESS?

MISSION  
CORE VALUES  
WHY





SUCCESS

# 3. CUSTOMERS

A man in a dark jacket and blue backpack is jumping joyfully in the center of a crowd. The crowd consists of many people wearing blue shirts, some of whom are clapping and cheering. The background shows a modern building with large glass windows and a well-lit interior. The overall atmosphere is one of excitement and celebration.

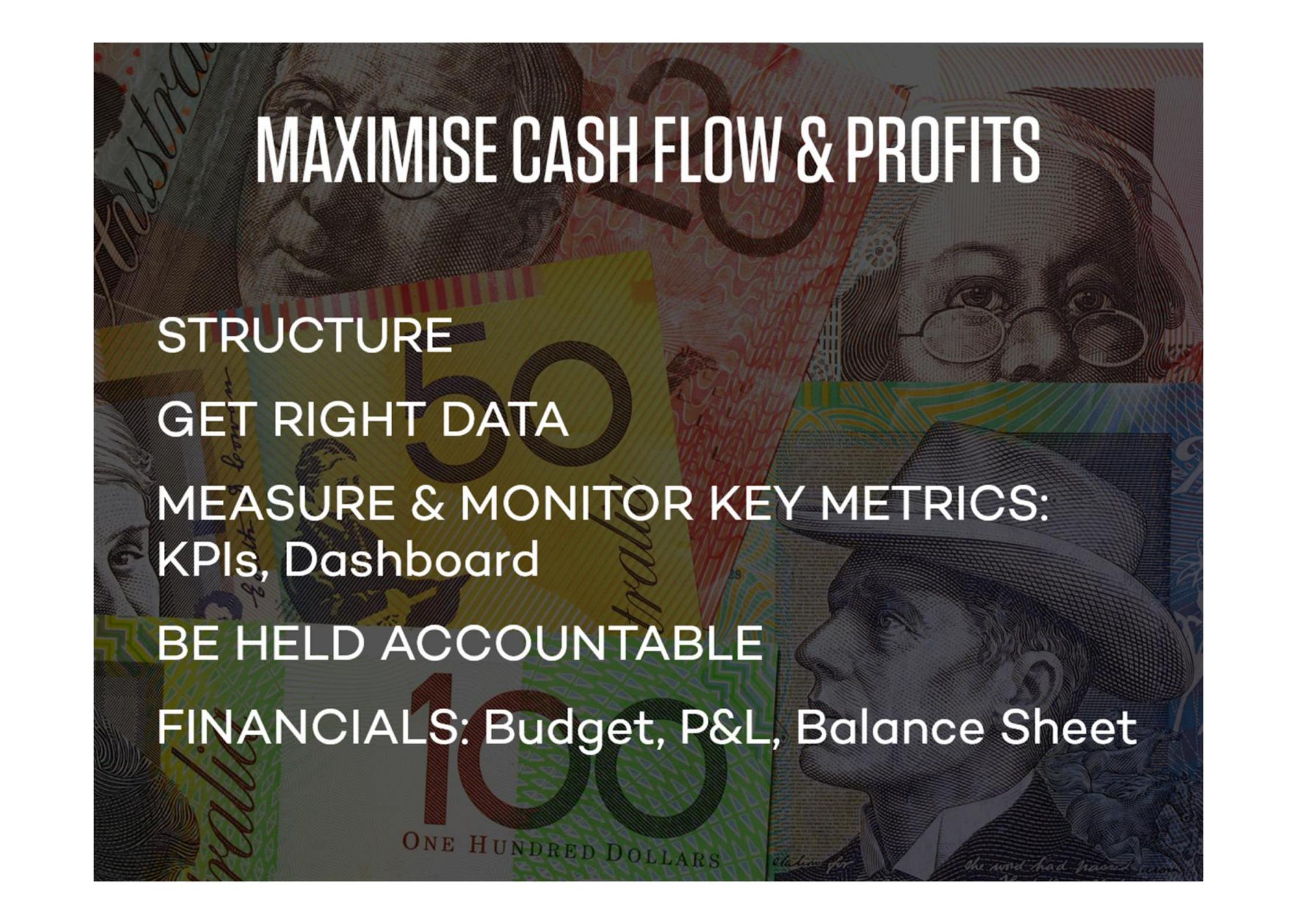
**ATTRACT, CONVERT & RETAIN  
IDEAL CUSTOMERS**

**SALES & MARKETING  
CUSTOMER EXPERIENCE  
LOOK THROUGH THEIR EYES**

A man in a blue shirt is holding a large fan of 100 Euro banknotes. The banknotes are green and yellow, and the number '100' is visible on several of them. The man's face is partially visible at the top of the frame, showing a smile. The background is plain white.

**SUC**C**ESS**

# 4. CA-CHING

The background is a collage of Australian banknotes and portraits of historical figures. Visible are a 20-dollar note, a 50-dollar note, and a 100-dollar note. Portraits include a man with glasses, a woman with glasses, and a man in a hat. The text is overlaid in white on a dark, semi-transparent background.

# MAXIMISE CASH FLOW & PROFITS

STRUCTURE

GET RIGHT DATA

MEASURE & MONITOR KEY METRICS:  
KPIs, Dashboard

BE HELD ACCOUNTABLE

FINANCIALS: Budget, P&L, Balance Sheet



SUCCESS

# 5. EXECUTION

A photograph of several business professionals in a meeting, with their hands clasped together in a gesture of agreement or teamwork. The image is overlaid with a semi-transparent dark grey filter, and white text is centered over it.

**DELIVER ON PROMISES**

**PEOPLE**

**PROCESSES**

**OPERATIONS v STRATEGY**

**MAKE PROACTIVE**

**DECISIONS (Traffic lights)**

A close-up photograph of Donald Trump speaking at a podium. He is wearing a dark suit, a white shirt, and a blue tie. He has a serious, determined expression and is pointing his right index finger upwards. The background is a blue curtain. In the top right corner, the word "SUCCESS" is written in white, with the second 'S' highlighted in yellow. At the bottom, the text "6. SACK YOURSELF" is overlaid in large white letters.

SUCCESS

6. SACK YOURSELF



**CREATING A TRULY SELLABLE ASSET**

**SELF-SUFFICIENT  
BUSINESS**

**SEPARATE YOURSELF  
(Director v Shareholder)**

SUCCESS

7. SELL



# GET FULL VALUE FOR YOUR BUSINESS ASSET

A man in a dark suit is climbing a red ladder against a large, light blue arrow painted on a dark blue wall. The arrow points upwards and is the central focus of the image. The man is positioned in the center of the arrow, reaching up towards the top. The background is a textured, dark blue wall.

HOW MUCH DO YOU WANT TO GET?

WHAT'S IT WORTH NOW?

HOW TO BRIDGE THE GAP?

WHO'LL BUY IT?



**FOR SALE**

**Strategy**

**Understand yourself**

**Customers**

**Ca-ching**

**Execution**

**Sack yourself**

**Sell**



**FOR SALE**

**BOOK OUT MAR 2016**

**“HAVE YOUR CAKE  
and sell it too”**

**PRE-REGISTER TO  
GET A SIGNED COPY**  
(AND OTHER eBook BONUSES)

[www.jasoncunningham.com.au](http://www.jasoncunningham.com.au)

# THANKS!



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# Brendan Watkins

## Industry Overview

# \$100,000 Investment in Promoting Victorian Pool & Spa Ownership

1. New Spa TV Commercial \$15k
2. TVCs \$42,500 Jan & \$32,500 June 2016
3. Learn to Swim program \$10k

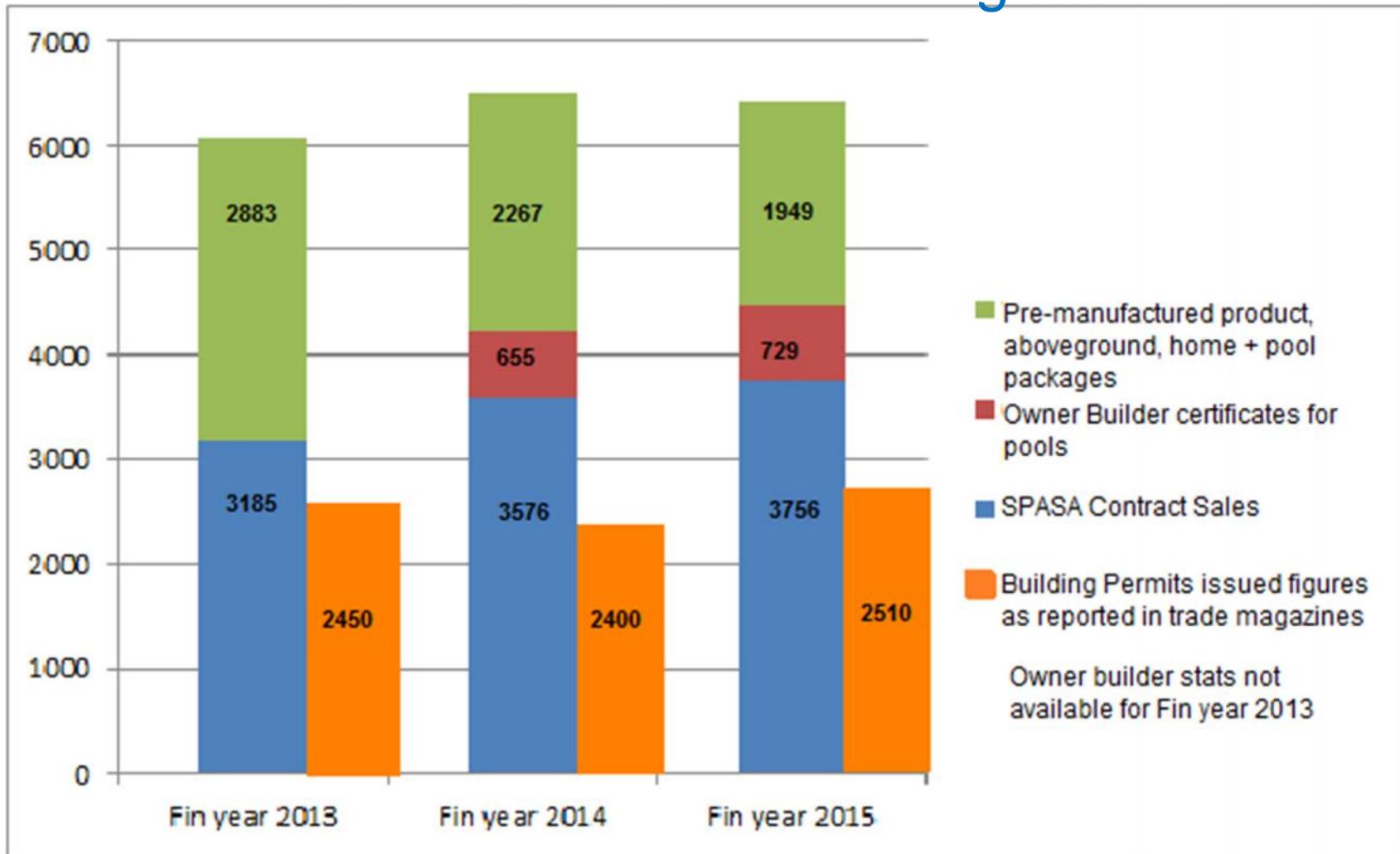
Extensive pre-show airing & available for members to re-edit and use for their own campaigns on TV & any alternate digital media (websites, in-store promotions, regional TV, etc)



# “Teaching Every Victorian Child to Swim in the Next Decade”



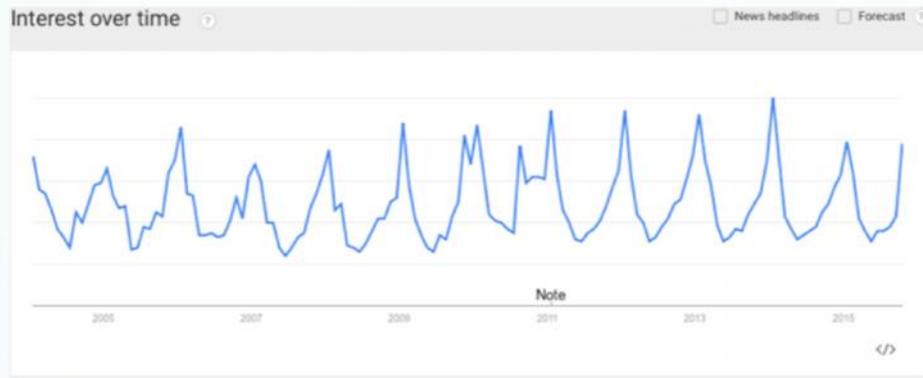
We've had a decent past 3 years – SPASA member volume is increasing ....



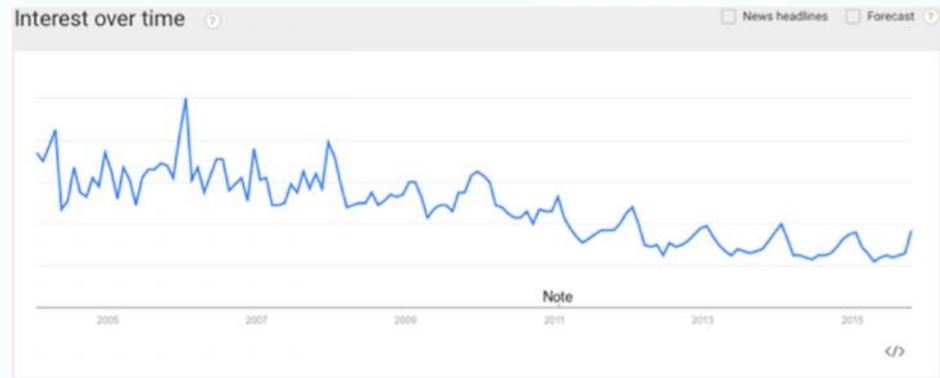
Aligns with our consumer & media comms dissuading the unsuspecting from Owner Builder projects

# Melbourne originated Google searches 2005 - 2015

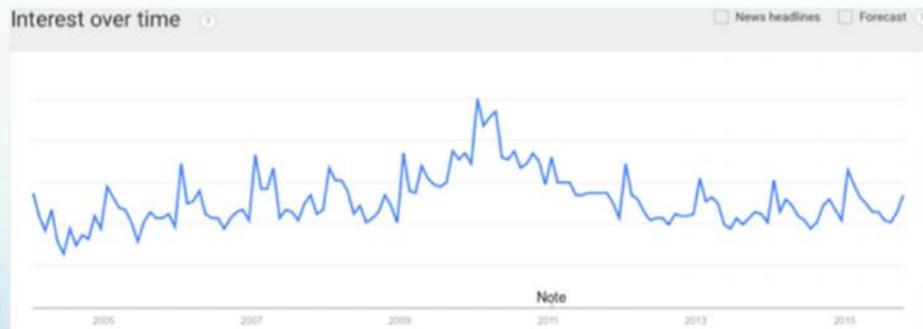
## Swimming Pool



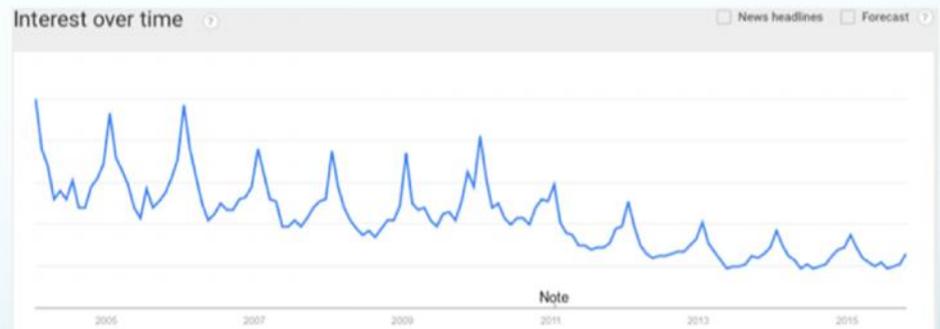
## Spas



## Caravans



## Boats



# 2016 Exclusive Advertising Offer



Full pages ads >  
Lucky last ...



# Drawing of the SPASA Survey

2 x \$100 “SPASA Credit” Prizes  
Prize is Doubled if an AGM Attendee



## Q & A : Dates : General Business

2016 Training Program – Out Now

NEW Consumer Guide & Member Directory Published 5 Feb 16  
Pool & Spa Expo at MCEC – Friday 5 - Sunday 7 February

2016 Awards of Excellence Awards Entries Opening – 22 Feb

Chris Dorrity Memorial Golf Day – Friday 11 March

Awards of Excellence Gala Bookings Open – Friday 29 April

Awards of Excellence Gala Dinner – Saturday 25 June

Spa & Pool Show at MCEC (Winter Show) – 13 & 14 August

SPASA 2017 Advertising Offer Launch – Monday 1 August

OPEN  
FLOOR



SPASA

VICTORIA

SWIMMING POOL & SPA ASSOCIATION

[www.spasavic.com.au](http://www.spasavic.com.au)

