

Proposals to improve the legislative framework for swimming pool safety – April 2013



Photo courtesy of The Children's Hospital at Westmead.



Government of South Australia
Department of Planning,
Transport and Infrastructure

EXECUTIVE SUMMARY

This discussion paper outlines proposals for improving the legislative framework for swimming pool safety in South Australia. It has been prepared in response to concerns that young children continue to drown in swimming pools and that death by drowning is one of the biggest causes of accidental death of children under five years of age. For every drowning death, there are more young children who suffer persisting morbidity as a consequence of accidental immersion in a swimming pool. The paper discusses several issues including:

- (i) The varying standards applying to child-safety barriers for swimming pools and the difficulties in determining which standard applies to a particular swimming pool;
- (ii) The anecdotal evidence that suggests that the number of swimming pools that are unapproved and/or have non-complying child-safety barriers is significant;
- (iii) The need for, and scope of, council swimming pool safety inspection policies;
- (iv) The absence of a statutory system for certifying and/or monitoring compliance;
- (v) Resourcing and cost issues that prohibit councils from prosecuting a person for an offence under *section 71AA* of the Development Act 1993; and the reluctance to provide an advisory service regarding compliance to owners of swimming pools.

The discussion paper identifies a number of proposals on which the Department is seeking comment. These proposals include that:

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| 1 | There be a requirement for all swimming pools to be regularly inspected for maintenance of safety features. |
| 2 | There be cost recovery mechanisms for swimming pool inspections. |
| 3 | Councils should be required to have an inspection policy for swimming pools. |
| 4 | There be cost recovery mechanisms for swimming pool inspections by councils. |
| 5 | The scope of a council inspection policy for swimming pool inspections should be a minimum percentage of audit inspections on new swimming pools. |
| 6 | Swimming pool enforcement and compliance inspections should remain a function of local government. |
| 7 | Private consultants should be able to issue compliance certificates. |
| 8 | All swimming pools should be required to be registered. |
| 9 | There should be local council-based registers. |
| 10 | There should be a penalty for an unregistered swimming pool. |
| 11 | There should be a reasonable amnesty period for people to get their swimming pools registered. |
| 12 | Should all swimming pools be required to be upgraded to current standards within a prescribed time? |
| 13 | The current requirement for upgrading on the sale of a property should be retained. |
| 14 | The date for prescribed swimming pools should be changed. |
| 15 | Resuscitation signage should be mandatory for all swimming pools. |

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1.0 INTRODUCTION

1.1 Purpose

This discussion paper has been prepared for the purpose of consultation with industry, local government, and the South Australian community on a number of proposals for improving the legislative framework for *swimming pool* safety and has been prepared giving consideration to:

- (i) The final report by the South Australian Water Safety Committee - *Review of swimming pool legislation and arrangements in South Australia*, dated July 2010 (SAWSC Final Report);
- (ii) A report prepared by Botten Levinson - *Part 3 – Swimming pool safety*, dated June 2010 (Botten Levinson Review); and
- (iii) The *Finding of the Inquest into the death of Bryce Ashton Eddleston*, dated 21 March 2013 (Coroner's Inquest Findings).

The discussion paper proposes to improve the legislative framework for *swimming pool* safety through one or more of the following means:

- (i) Introducing mandatory requirements relating to inspections including;
 - (a) the establishment of a system of regular *swimming pool* safety inspections, which could include:
 - (A) the registration of appropriate persons to inspect *swimming pools* and/or certify compliance.
 - (B) the establishment of a register or database of *swimming pools*.
 - (b) the implementation of *section 71AA (7)* which requires councils to have dedicated *swimming pool* inspection policies.
- (ii) Reviewing and consolidating the compliance options for *swimming pools*, which currently vary depending upon either the age of the *swimming pool* or the date that an application for approval was submitted.

The discussion paper does not:

- (i) address standards for child-safety barriers or requirements for the configuration of such barriers, as those requirements are technical and are addressed separately in the Building Rules under the *Development Act 1993 and Development Regulations 2008*¹; or
- (ii) include a cost / benefit analysis or regulatory impact assessment of the proposals. These will be developed following consultation.

1.2 Background

From 1 October 2008 an owner of a *prescribed swimming pool* (refer **Section 1.3**) who intends to sell their property must ensure that child-safety barriers comply with new requirements before settlement occurs. A commitment was made to review the effectiveness of these requirements following their introduction.

¹ For the purposes of this paper, 'the Act' refers to the Development Act 1993 and 'the Regulations' refers to the Development Regulations 2008.

1.2.1 SAWSC – Final Report

In February 2009, a sub-committee of the South Australian Water Safety Committee was formed to review the legislative framework governing *swimming pool* safety. A range of stakeholders were consulted as part of the review.

The review resulted in a number of recommendations, several of which remain to be considered. These include:

- (i) Each council should develop and maintain a separate register of *swimming pool* developments to which the Act applies;
- (ii) The current requirement of *section 71AA (7)* of the Act, to ensure that all new *swimming pool* enclosures be inspected and certified as compliant prior to being filled with water, should be enforced by councils;
- (iii) The Act be amended so as to require all *swimming pool* enclosures to be certified as compliant at least every four years, and at the time of sale and/or lease;
- (iv) In conjunction with the Real Estate Institute of SA and Conveyancers Institute of SA, councils should develop a system to require and record *swimming pool* enclosure compliance at the time of sale and/or lease;
- (v) The Department of Planning, Transport and Infrastructure, in consultation with the Local Government Association, should develop a standard Certificate of Compliance with regard to *swimming pool* enclosures, for use by those agencies and accredited building inspectors, and
- (vi) Signage outlining procedures for Cardio Pulmonary Resuscitation that complies with the Australian Resuscitation Standard be displayed in or around the pool so as to be clearly visible.

1.2.2 Botten Levinson Review

In 2010 Botten Levinson reviewed the effectiveness of the legislative framework governing *swimming pool* safety by issuing a questionnaire to council planning and building staff, including development unit managers. In relation to the *swimming pool* safety requirements the questionnaire was designed to determine:

- (i) the existence, or otherwise of council policies relating to compliance assessment;
- (ii) resourcing relating to assessment, inspection and enforcement; and
- (iii) the nature and extent of policies, procedures and systems.

The review determined that:

- (i) The legislation requiring the upgrading of existing *swimming pools* prior to settlement is appropriately structured; however it is not adequately resourced. In short, for existing *swimming pools* the sale of the property is an effective trigger for the imposition of new obligations but there needs to be an associated inspection and compliance regime.
- (ii) Compliance in relation to the construction of new *swimming pools* was found to be reasonably well monitored.

For the current legislative framework to be effective, the review recommended that *section 71AA (7)*, which requires councils to have a *swimming pool* safety inspection policy, needs to be brought into effect.

1.2.3 Coroner's Inquest Findings

The Coroner's findings into the swimming pool death of a child that were handed down on 21 March 2013, recommended that the Minister for Planning give consideration to whether it is appropriate to establish a regular system of *swimming pool* safety inspections such as exists in Western Australia. In making the recommendation, the Coroner recognised the likely costs of such a requirement.

1.3 Interpretation

For the purpose of this discussion paper:

Swimming pool means an excavation or structure that is capable of being filled with water and is used primarily for swimming, wading, paddling or the like and includes a bathing or wading pool or spa pool (but not a spa bath).

Prescribed swimming pool means a *swimming pool* -

- (a) approved, constructed or installed before 1 July 1993; and
- (b) formerly subject to the requirement imposed by the (now repealed) *Swimming pools (Safety) Act 1972* to be fenced or otherwise enclosed.

Gap swimming pool means a *swimming pool* for which an application for consent was submitted between 1 July 1993 and 1 December 2010.

1.4 Submission of comments

The discussion paper identifies a number of proposals to which the Department is seeking comment. Submissions can be made to –

General Manager Building Policy
Statutory Planning Branch
Department of Planning, Transport and Infrastructure (Planning Division)
GPO Box 1815
ADELAIDE SA 5001
Email: dpti.pdbuildingbranch@sa.gov.au

2.0 MANDATORY REQUIREMENTS FOR INSPECTIONS

2.1 Establishing a system of regular *swimming pool* safety inspections

The Coroner recommended that the Minister for Planning give consideration to whether it is appropriate to establish a regular system of *swimming pool* safety inspections such as exists in Western Australia.

A summary of *swimming pool* safety requirements in New South Wales, Queensland and Western Australia is provided in Appendix A of this discussion paper. Of the three States examined in Appendix A, only Western Australia has a requirement for regular inspections of all *swimming pools*.

The Coroner acknowledged that the establishment of a regular inspection regime has the potential to incur significant costs. These costs are likely to be in additional administration (such as the keeping of a database and records) and in the costs of inspections themselves.

The potential for cost-recovery mechanisms may include fees for regular inspections, expiation penalties for failure to register, and for non-compliance. However, the owners of *swimming pools* could argue that they already pay a premium on their rates, due to the increased property value of having the *swimming pool*, and that they receive no additional service for this.

The Coroner also recognised that consideration of a requirement for regular inspection of *swimming pools* would need to include;

- (i) the responsibility of individual *swimming pool* owners to comply with the law; and
- (ii) the policy considerations inherent in imposing a cost on all *swimming pool* owners to prevent what may be an infrequent occurrence - that is, a significant departure from approved building plans such as occurred in the case examined by the Coroner.

The issue of regular inspections for all *swimming pools* would require some form of licensing/registration such that a *swimming pool* must be confirmed (on a regular basis) as being compliant in order for it to be used. This is discussed further in **Section 3**.

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| Proposal 1 | There be a requirement for all swimming pools to be regularly inspected for maintenance of safety features. |
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| Proposal 2 | There be cost recovery mechanisms for swimming pool inspections. |
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2.2 Mandatory *swimming pool* safety inspection policies in accordance with section 71AA (7)

A consistent theme of the SAWSC and Botten Levinson reviews was the need to implement *section 71AA (7) of the Act* which requires councils to have *swimming pool* safety inspection policies. If that were to occur, the scope of these policies needs to be determined. Options could include:

- (i) A mandatory inspection of all new *swimming pools* on completion
- (ii) A minimum percentage of audit inspections on new *swimming pools*
- (iii) Audit inspections of existing properties for sale that include a *swimming pool*.

Proposal 3

Councils should be required to have an inspection policy for swimming pools.

Proposal 4

There be cost recovery mechanisms for swimming pool inspections by councils.

Proposal 5

The scope of a council inspection policy for swimming pool inspections should be a minimum percentage of audit inspections on new swimming pools.

2.3 Inspection, enforcement and advice

Only authorised officers of a council are recognised by legislation as being able to undertake statutory **inspections** and **enforce** the requirements for *swimming pool* safety under the Act.

When the 2008 provisions were implemented, the Department provided training to assist people in understanding the new requirements so that they could **provide advice** to vendors. As a consequence there are a number of private consultants who offer advice on *swimming pool* safety compliance.

This has created a situation where compliance advisory services are provided by both authorised officers (who do have legislative authority) and private consultants (who do not have legislative authority). This has been problematic in that advice has been inconsistent.

At its worst, this situation has resulted in occasions where a vendor has been refused advice on compliance matters by the council and has therefore engaged a private consultant to provide the advice. The consultant has provided written advice that the child-safety barriers comply with requirements. Subsequently, the council has inspected the property after settlement, and has determined that the child-safety barriers are non-compliant, resulting in actions by the purchaser against the vendor and the consultant.

This is an unfair and untenable situation for private consultants who are attempting to provide a service which some councils appear unwilling to offer.

2.3.1 Local government authorised officers

There must be a reliable and cost-effective system that enables councils to provide compliance advice as well as compliance and enforcement activities. Possible cost-recovery mechanisms include fees for regular inspections, registration fees, expiation penalties for failure to register and for non-compliance.

Council building surveyors are authorised officers who are required to hold prescribed qualifications and to have knowledge of building legislation and standards – including *swimming pool* safety requirements. There is already a shortage of these officers who have other inspections to do for building safety as well as *swimming pools*.

In Western Australia, a local government partnership with Royal Life Saving WA operates where that community organisation undertakes the work for a legislated service fee that is capped at \$55 per inspection.

2.3.2 *Private swimming pool consultants*

There is potential for inspections to be undertaken by trained private consultants. The consultants could produce a compliance certificate which the *swimming pool* owner then presents to council. The consultants would need to be registered, administered, audited and subject to compliance action similar to private certifiers for building rules assessments.

If the system allowed certification of compliance by private consultants, the following provisions are essential:

- (i) The ability for councils to rely on a certificate issued by a recognised expert similar to certificates from Independent Technical Experts in relation to building rules assessments.
- (ii) Registration of suitably qualified persons similar to private certifiers of building rules assessment.
- (iii) The setting of qualification pre-requisites and CPD training for private *swimming pool* consultants.
- (iv) Registered private consultants being subject to auditing and disciplinary measures.
- (v) A mandatory code of practice for private consultants.

There would be administrative costs to government associated with the registration of private *swimming pool* safety consultants which would need to be covered by registration fees and/or, possibly a levy on fees payable by the *swimming pool* owner.

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| Proposal 6 | Swimming pool enforcement and compliance inspections should remain a function of local government. |
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| Proposal 7 | Private consultants should be able to issue compliance certificates. |
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3.0 REGISTRATION OF SWIMMING POOLS

3.1 Issues to consider

For reasons of credibility, any regime that requires the regular inspection of *swimming pools* will require the establishment of either a registration system or a database of *swimming pools*.

There is no central register of *swimming pools* in South Australia so basic information like the number, age, or location of *swimming pools* is unknown. Further, some councils do not keep records more than the statutory ten years. Anecdotally, some *swimming pools* have never been approved.

Swimming pools are required to be registered in Queensland and New South Wales and there is no fee for registration. There are penalties for failure to register a *swimming pool* within a prescribed period. Renewal of registration could be linked to regular inspections – the registration being renewed upon certification of compliance after each regular inspection. The issue of regular inspections has been previously discussed in **Section 2**.

The advantages and disadvantages of requiring *swimming pools* to be registered are identified in **Table 3.1**.

| Advantages | Disadvantages |
|--|---|
| Information regarding the number, age, and location of <i>swimming pools</i> can be readily obtained | Increased 'red tape' |
| <i>Swimming pools</i> that have been built without authorisation can be identified more readily | Potential costs for <i>swimming pool</i> owners |
| Ability to correspond with owners of <i>swimming pools</i> , regarding safety requirements | |
| Ability to establish regular inspections of <i>swimming pools</i> , to improve on-going maintenance of safety features | |

Table 3.1 Advantages and disadvantages of requiring *swimming pools* to be registered.

3.2 Options for establishing a registration system for swimming pools

3.2.1 Central State-based register

In order to establish a central State-based register, information would need to be collected and supplied by councils in relation to *swimming pools* in their council area.

The advantages and disadvantages of establishing a central State-based register are identified in **Table 3.2**.

| Advantages | Disadvantages |
|--|--|
| Administrative costs are aggregated centrally. | The central agency would be responsible for the entire State, which is potentially an inefficient and ineffective way to handle local <i>swimming pool</i> safety and enforcement matters. |

Table 3.2 Advantages and disadvantages of a central State-based register

3.2.2 Local council-based registers

In order to establish a local council-based register, information would still need to be collected by councils in relation to *swimming pools* in their council area. **Table 3.3** identifies the advantages and disadvantages of establishing a central State-based register.

Table 3.3 identifies the advantages and disadvantages of a local council-based register

| Advantages | Disadvantages |
|--|---|
| Each council would be able to provide the services to the <i>swimming pool</i> owners in its local area. | Administrative cost incurred by local government. |
| Councils would be better able to undertake enforcement and compliance work. | Potential costs for <i>swimming pool</i> owners |

Table 3.3 Advantages and disadvantages of a local council-based register

3.3 Penalties for having an un-approved / unregistered *swimming pool*

For a system of *swimming pool* safety registration and enforcement to be effective, it would be necessary to have fair consequences for non-compliance. These could range from expiation notices to de-registration and it could be a breach of the Act for people to use an unregistered *swimming pool*. Unapproved *swimming pools* could also be faced with removal.

3.4 Process to register existing *swimming pools* and associated amnesty periods

In order to ensure that all *swimming pools* are registered, it would be necessary to -

- (i) Provide an effective information campaign to ensure all home owners are aware of the requirements.
- (ii) Provide time for owners of *swimming pools* to comply.
- (iii) Establish penalties for failure to register a *swimming pool*.
- (iv) Establish a registration framework.

Consideration will need to be given to what is a reasonable period of time for owners to comply. In New South Wales and Queensland, registration of a *swimming pool* involves

completion of an on-line or hard-copy form that provides details identifying the owner and address of the property with the *swimming pool*.

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| Proposal 8 | All swimming pools should be required to be registered. |
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| Proposal 9 | There should be local council-based registers. |
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| Proposal 10 | There should be a penalty for an unregistered swimming pool. |
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| Proposal 11 | There should be a reasonable amnesty period for people to get their swimming pools registered. |
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4.0 ONE SET OF RULES FOR SWIMMING POOLS

4.1 Issues to consider

The rules for child-safety barriers that are applicable to a *swimming pool* vary depending on the age of the *swimming pool*, or the date that an application for approval was submitted (*section 53, section 71AA*). When determining compliance of child-safety barriers, a person must first determine:

- (i) the age of the *swimming pool*
- (ii) the rules that applied at that time
- (iii) the rules that apply now for a *swimming pool* of that age.

Since legislation and standards applying to *swimming pool* safety have changed a number of times over the years, it can be difficult to determine which set of rules apply to the specific *swimming pool* being considered.

It can also be difficult to determine the age of a *swimming pool* as there is no central register of *swimming pools* and councils do not necessarily keep records of approved pools. Some *swimming pools* have never been approved.

Because of the confusion regarding which requirements apply to any specific *swimming pool*, it has been suggested there should be one set of rules for all *swimming pools*, regardless of the age of the *swimming pool*. Some other jurisdictions in Australia are working towards this goal. In Queensland, this will apply from 2015.

The following are options for compliance policies, with possible advantages and disadvantages nominated, for consultation and discussion purposes.

4.2 Options for improving *swimming pool* safety compliance policies

4.2.1 Option one – upgrading on sale of a property

Since 1 October 2008, there has been a requirement for the owner of a *prescribed swimming pool* to ensure child-safety barriers comply with new requirements before settlement, when the property is sold. This option continues the current requirement for upgrading of very old child-safety barriers upon sale of the property.

As such, owners of *prescribed swimming pools* would not need to find the money to upgrade child-safety barriers including the provision of a fence between the doors of the house and the *swimming pool* and; ensuring boundary fences forming part of the child-safety barrier are at least 1.8m high, within a prescribed period of time. They would only be required to do these things when selling the property. Owners of *gap swimming pools* could continue to have child-resistant doors and 1.2m boundary fences as parts of the child-safety barrier.

The advantages and disadvantages nominated for this option are based on a comparison with option four (refer **Section 4.2.4**).

| Advantages | Disadvantages |
|---|---|
| Reduces potential costs for <i>swimming pool</i> owners | Many properties may not be bought or sold for many years; therefore there may be many <i>swimming pools</i> with relatively unsafe child-safety barriers. |

Anecdotally, properties are being sold without the child-safety barriers being upgraded. There appears to be continuing difficulty in enforcing the law, due to uncertainty of:

- (i) when the property ownership was transferred
- (ii) the age of the *swimming pool*
- (iii) costs associated with enforcement.

4.2.2 Option two - change the date for prescribed *swimming pools*

Currently, only *swimming pools* pre-dating 1 July 1993 need to be upgraded upon property sale and settlement. That date leaves a gap of over 17 years. One option to improve the safety of *swimming pool* child-safety barriers would be to simply change the prescribed date to a more recent date, thereby reducing the number of *gap swimming pools*. The most recent significant change to rules for *swimming pool* safety occurred on 2 December 2010, when direct access from the house to the *swimming pool* area via child-resistant doors was no longer permitted for new building rules consent applications involving a *swimming pool*. 2 December 2010 may be a suitable date for the purpose of defining what a prescribed *swimming pool* is.

The main technical differences are:

- (i) A requirement for a fence between the doors of the house and the *swimming pool* – whereas currently, child-resistant doors are allowable for *gap swimming pools*.
- (ii) A boundary fence that forms part of a child-safety barrier must be at least 1.8m high – whereas currently, a 1.2m high boundary fence is allowable.

The 1.2m high fence that was approved for *gap swimming pools* relied on the adjoining land owner keeping the area within 1.2m of the fence clear of climbable objects. The problem with this is that the *swimming pool* owner has no control over the actions of the adjoining property owner. The *Australian Standard AS 1926.1 – 2012* now requires a Non-Climbable Zone at the top (on the *swimming pool* side) of a 1.8m high boundary fence – this means that the actions of the adjoining owner do not affect compliance.

| Advantages | Disadvantages |
|--|--|
| The number of <i>swimming pools</i> with a barrier between the doors of the house and the <i>swimming pool</i> is increased. | <i>Gap swimming pools</i> could have been approved with child-resistant doors as part of the child-safety barrier. A requirement for the owners of these <i>swimming pools</i> to upgrade the barriers when selling the property would mean requirements to provide a barrier between the doors of the house and the <i>swimming pool</i> , and for boundary fences forming part of the barrier to be at least 1.8m high. This would affect owners of <i>swimming pools</i> which were |

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| | approved as recently as 1 December 2010. |
| | Continuing uncertainty regarding which set of rules apply. It would continue to be necessary to determine the date an application was made for building rules consent, before it can be determined which law applies. |

4.2.3 Option three - continue allowance for gap swimming pools to comply with the rules in place at the time the swimming pool was approved

This option would require the mandatory upgrading of all very old (prescribed) *swimming pools* to the requirements for new *swimming pools*. *Swimming pools* approved between 1 July 1993 to 1 December 2012 could continue to comply with the rules that applied at the time of application for building rules consent under the Act.

| Advantages | Disadvantages |
|--|---|
| The owner of a recently approved <i>swimming pool</i> (as late as December 2010) is not required to make alterations to the child-safety barrier due to a change in the law. | Continuing uncertainty regarding which set of rules apply. It would continue to be necessary to determine the date an application was made for building rules consent, before it can be determined which law applies. |

4.2.4 Option four - require compliance within a prescribed period

All *swimming pools* would be required to be upgraded to current standards within a prescribed period. For example, in Queensland all *swimming pools* will be required to comply with the same rules by 2015. An option for compliance within three years was considered a number of years ago, but was rejected in favour of linking requirements to transfer of property ownership.

| Advantages | Disadvantages |
|---|---|
| A requirement for compliance by a specified date would assist in achieving the goal of one rule applying to all <i>swimming pools</i> , regardless of the age of the <i>swimming pool</i> . | <i>Gap swimming pools</i> could have been approved with child-resistant doors as part of the child-safety barrier. A requirement for all <i>swimming pools</i> to comply with one set of rules would mean that these pools would be required to provide a barrier between the doors of the house and the <i>swimming pool</i> , and for boundary fences forming part of the barrier to be at least 1.8m high. This would affect owners of <i>swimming pools</i> which were approved as recently as 1 December 2010. |

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| Proposal 12 | Should all <i>swimming pools</i> be required to be upgraded to current standards within a prescribed time? |
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Proposal 13

The current requirement for upgrading on the sale of a property should be retained.

Proposal 14

The date for prescribed *swimming pools* should be changed.

5.0 SIGNAGE

The SAWSC recommended that it should be a requirement for all *swimming pools* to have signage explaining resuscitation procedures. This would ensure that if a person does get into difficulties in a *swimming pool* then those in attendance would have some basic information about resuscitation.

Proposal 15

Resuscitation signage should be mandatory for all swimming pools.

6.0 SUMMARY OF PROPOSALS

| Reference | Proposals | |
|-----------|-----------|---|
| 2.0 | 1 | There be a requirement for all swimming pools to be regularly inspected for maintenance of safety features. |
| | 2 | There be cost recovery mechanisms for swimming pool inspections. |
| | 3 | Councils should be required to have an inspection policy for swimming pools. |
| | 4 | There be cost recovery mechanisms for swimming pool inspections by councils. |
| | 5 | The scope of a council inspection policy for swimming pool inspections should be a minimum percentage of audit inspections on new swimming pools. |
| | 6 | Swimming pool enforcement and compliance inspections should remain a function of local government. |
| 3.0 | 7 | Private consultants should be able to issue compliance certificates. |
| | 8 | All swimming pools should be required to be registered. |
| | 9 | There should be local council-based registers. |
| | 10 | There should be a penalty for an unregistered swimming pool. |
| | 11 | There should be a reasonable amnesty period for people to get their swimming pools registered. |
| 4.0 | 12 | Should all <i>swimming pools</i> be required to be upgraded to current standards within a prescribed time? |
| | 13 | The current requirement for upgrading on the sale of a property should be retained. |
| | 14 | The date for prescribed swimming pools should be changed. |
| 5.0 | 15 | Resuscitation signage should be mandatory for all swimming pools. |

7.0 APPENDICES

Appendix A -Swimming pool safety requirements in other States

| Statutory requirement | Western Australia | Queensland | New South Wales |
|---|---|--|--|
| Regular inspections of swimming pools | Required inspections of all swimming pools, by local government, every four years | Regular inspections are not required . Inspection required when selling, buying, leasing or entering into another type of accommodation agreement. | Regular inspections are not required for private residential swimming pools. Commencing April 2014, councils must inspect and register strata titled units or tourist and visitor accommodation as compliant every 3 years, and for other properties, if a property is sold or leased. Councils to develop an inspection program for other swimming pools including private residential. Level of inspection for these at the council's discretion. |
| Penalties for non-compliance | \$200. Maximum penalty for failure to comply with notice \$5,000 + additional \$250 per day the offence continues | \$16,000 for construction and maintenance offences. \$16,000 fines for properties sold without certificate | \$5,500 |
| Who conducts inspections? | Local Government | Private trained, licensed swimming pool safety inspectors | Local Government |
| Cost for inspections | Maximum fee for completion of mandatory inspections \$55 | Set fee \$223.50 for inspectors, includes certificate | Prescribed maximum council fee \$150 initial, \$100 maximum additional |
| Is registration of swimming pools required? | No . Councils have reliable approval records, and also utilise satellite imagery to locate swimming pools | Yes . There is a state register. Swimming pool owners register once and must be registered within approx 9 months. Inspectors access register to provide updated compliance certificates. Register is searchable by public. | Yes . From April 2013, pool owners register once and complete an educative checklist. They must be registered within 12 months. Councils access register to keep owner details up to date. |
| Cost to register | Not applicable | No cost – registration is free. | No cost – registration is free. |
| Penalties for not registering | Not applicable | Maximum penalty \$2,200 if not registered within approx 9 months | Infringement \$220. \$2,200 maximum court penalty with 12 month transitional period |
| Requirement to | No . Access via child- | Yes . Access via child- | No . Access via child- |

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| <p>upgrade older swimming pools, providing a safety fence between the doors of the house and the swimming pool?</p> | <p>resistant doors is allowable for older swimming pools.</p> | <p>resistant doors is permitted for older swimming pools until 2015. From 2015, a fence must be provided between the doors of the house and the swimming pool. There is an impracticality exemption at the council's discretion. If the property is sold, a fence must be provided by the vendor, or can negotiate with the purchaser to provide the fence within 90 days of property transfer.</p> | <p>resistant doors is allowable for older swimming pools.</p> |
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