



RESPONSE TO SWIMMING POOLS ACT 1992 REVIEW

WSROC writes in response to the Division of Local Government's discussion paper on the proposed changes to the 1992 Swimming Pools Act.

WSROC realises that the formal submission process has closed, but having received late notice regarding this review, we wish to make the following brief comments in support of our local councils, asking that they be considered in the review process.

All WSROC councils are concerned about the tragedy of drownings in backyard swimming pools and take seriously their responsibility to ensure residential pools comply with the safety requirements of the 1992 Act. Furthermore, WSROC councils welcome reasonable measures aimed at reducing the incidence of drownings and near drownings in backyard pools.

However, while supporting such reasonable measures, WSROC is concerned that they do not impose unreasonable extra financial, regulatory or legal burdens on local councils.

To this end, WSROC wishes to make the following points.

1. The prime responsibility for compliance with the Swimming Pools Act 1992, and ensuring that backyard pools are constructed and maintained and properly fenced according to its provisions, must remain with the pool owner and not with councils. Further, responsibility for the safety of children must primarily lay with their parents. Careful supervision of children and the promotion of water safety must go hand-in-hand with on-going attention to pool fencing.
2. Because the prime responsibility for pool safety must remain with the pool owner, so must the legal obligations. The review of the Act must not allow any explicit or implicit transfer of legal liability to councils. While councils will help ensure awareness of, and compliance with the Act, they must be exempt from any legal action in respect of advice provided in good faith and actions either carried out or omitted in good faith in relation to owner compliance with the fencing requirements under the Act.
3. Full cost recovery is necessary if changes are not to constitute further cost shifting to local government, adding to the burden already carried by councils and further reducing their ability to provide essential services to their communities. It will be impossible for councils to implement the proposed changes without the use of additional staff and the proposed fees will fall well short of the additional costs involved. In relation to this concern, several points need to be made.
 - i) While the proposal for a compulsory register of private swimming pools has merit, the proposed \$10 fee for councils to register home owners will not cover the costs involved, even if councils are able to accept the information provide by owners in good faith. Any requirements to check or confirm the accuracy of that information will seriously exacerbate the shortfall.

- ii) Without clear, consistent, and mandatory guidelines, individual councils may have to expend resources, validating existing data.
 - iii) Depending on the inspection regime proposed, and allowing for often-required re-inspections, even more council resources will be required, necessitating an even greater increase in fees to ensure full cost recovery. The proposed \$70 cap on certification fees is well short of what is required to cover council costs.
 - iv) The proposed annual reporting regime proposed also adds, albeit marginally, to councils' administrative burden.
4. The proposal to allow self-certification is problematic. Even with the most detailed and specific list of requirements, it is unlikely that owners acting in good faith would be able to adequately ensure pool safety to the required standards. The option of accessing accredited private certifiers is also fraught with problems. The first of these relates to uncertainties as to the rigour and expertise of such certifiers. The second relates to the inequity of capping council fees at \$70 but allowing private certifiers to charge the market rate.

In summary, WSROC welcomes efforts to improve pool safety but reiterates its concerns that proposed measures do not unreasonably add to the administrative, compliance and financial burdens already faced by councils.

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