

30th May 2017

Richard Wynne MP
Minister for Planning
Level 16, 8 Nicholson Street
East Melbourne Victoria, 3002

Dear Minister,

**RE: SYSTEM IMPROVEMENTS
POOL SAFETY BARRIER SAFETY & COMPLIANCE**

I write on behalf of the Victorian Municipal Building Surveyors Group (VMBSG). The purpose of this letter is to respond specifically to the proposed changes to requirements for Pool Safety Barriers from 1 October 2020 (Part 10, Division 2, Draft Building Regulations 2017). We have reviewed the proposal and take the opportunity to raise our concerns with regard to the regulatory proposal.

We wrote to you on 3rd May 2017 to suggest efficient and cost effective improvements to the legislative framework that applies to the safety, compliance and maintenance of Pool Safety Barriers. Our proposal is quite different to that set out in the draft regulations. We believe that our proposal is more likely to achieve high levels of owner awareness, voluntary compliance and child safety than that set out in the draft regulations; which by comparison are a passive approach that rely upon owner awareness and proactive Council enforcement.

The draft regulations are essentially the same approach adopted in the first tranche of retrospective pool safety barrier regulations that came into effect between 1995 and 1997. The drawback of this model is that owners generally have low levels of awareness; there are no incentives to voluntary compliance; Councils do not have robust records and do not know where to start if they contemplate proactive auditing. It probably comes as no surprise that there are still pre-1991 pools discovered by Municipal Building Surveyors around Victoria that do not comply with the July 1997 retrospective regulations.

As you will agree, there is nothing more tragic than the death of a child arising from the failure of Owners to maintain Pool Safety Barriers in a safe and compliant condition. As Municipal Building Surveyors, more than any other group, our members are at the coal face in terms encountering and enforcing the compliance requirements that relate to pool barriers.

Currently the Regulatory process is technically complex and difficult to navigate for pool owners, as a consequence, the level of compliance with technical and maintenance requirements is very poor. The findings of the recent Coroners report into the tragic death of Elijah Meldrum reinforces this case, it is important to note the incident of serious injury and ongoing physical and mental damage to children is also a significant issue.

It is our experience that any regulatory response should involve a pro-active regulated and managed system that acknowledges that many owners are poorly informed and extremely complacent about the risks that pools and spas pose for young children. The system should be based on robust registers held by each Council, structured easy to follow procedures, incentives for voluntary compliance, infringement penalties for non-compliance; and also be cost effective.

The proposed draft regulations will result in considerable cost for thousands of Pool owners across Victoria, which in itself is a disincentive to voluntary compliance. Many Pool owners will find that compliance will be difficult or even impossible with considerable expenditure and building work alterations due to individual architectural arrangements on domestic properties. In addition, the building work associated with achieving compliance will require a Building Permit, which adds additional cost.

This issue has been discussed with the DWELP and the VBA, and their predecessors for many years, without any genuine improvement in Pool safety. In the interests of the development of an improved and more structured regulatory system, our group suggest the following modifications and enhancements for your consideration as a regulatory amendment;

- Register of all pools in each municipality to be maintained by Council.
- All Pool & Spa owners must register their pools with Council.
- It would be an offence for owners not to put themselves on the Council register – infringeable offence of 10 penalty units.
- Owners required to obtain an Annual Report (AR) from a registered practitioner confirming compliance and maintenance of their Pool Safety Barriers.
- Owners required to lodge AR with Council on an annual basis e.g. 1 July each year.
- Lodgement fee payable to Council to maintain the register.
- Council sends warning letters to owners who do not lodge AR by due date.
- Infringements issued to Owners who do not lodge AR with Council after receiving warning letter – 10 penalty units.
- Council inspects pools for compliance and enforcement (where necessary) for those who do not lodge AR.
- In addition, when properties are sold, vendors to be required to provide current compliance report from a registered practitioner to be placed on the section 32 which is provided to prospective purchases.

In our view, our proposed changes to the regulatory framework set out above will realise significant improvement to the safety and compliance of Pool Safety Barriers in an efficient and cost effective manner. It will also cause much improved levels of awareness and understanding by Pool owners which will provide improved levels of safety. In addition,

Council existing rates database computer systems provide the most reliable method for recording and reporting on pool registers and compliance management.

We look forward to an opportunity to discuss this matter further with you. Should you wish to discuss further, please do not hesitate to contact me.

Yours sincerely



John Prendergast
President

Victorian Municipal Building Surveyors Group

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