

Review of Queensland's swimming pool safety laws

Swimming pool safety
review committee report
to the Queensland Government

April 2009

For copies of this report:

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Purpose of the report

Queensland has some of Australia's toughest swimming pool safety laws and since they were introduced in 1991, the number of child drownings has halved. But we can do better.

Over the past three years, 18 young Queenslanders have drowned in private swimming pools.

On 14 December 2008, the Honourable Anna Bligh MP, Premier of Queensland, announced the most comprehensive review of the state's swimming pool safety laws in nearly 20 years. The review focuses on reducing the number of drownings and serious immersion injuries in swimming pools involving children less than five years of age.

Since this announcement, a swimming pool safety review committee has been established comprising representatives from the Queensland Government, local government, industry and child and water safety groups. The committee's task has been to consider key areas of swimming pool safety, and provide information about the improvement of Queensland's swimming pool safety laws.

In preparing this report, the committee has drawn on submissions from a range of stakeholders and has considered several interstate and international regulatory systems for swimming pool safety. While the report reflects the general consensus

views of the committee, it does not necessarily reflect the position or policy of the Queensland Government.

Before considering the report, the Queensland Government wants to hear what you think about the committee's ideas.

How do I provide comment?

Your comments and suggestions will help the Queensland Government to develop and finalise pool safety improvements.

By completing and submitting the response form, you will assist Queensland Government in understanding community attitudes to the suggested pool safety improvements.

The response form can be found at the back of this document or can be completed online at www.getinvolved.qld.gov.au

Other ways to comment

Post your comments to:
'Attention: Review of Queensland's pool safety laws'

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Reply paid envelopes are available on request.

In person delivery:

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Closing date for comments

Written comments on the report must be received no later than 5 pm Friday 5 June 2009.

How to find out more

For more information, please contact:

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Contents

1	About the committee	3	6	Registering swimming pools	12
2	Widening swimming pool safety laws	4	6.1	Question	12
2.1	Question	4	6.2	Improvement ideas	12
2.2	Improvement ideas	4		Swimming pool register	12
	Other swimming pools	4		Model swimming pool register	12
	Portable swimming pools	4	6.3	Discussion	13
	Indoor swimming pools	4	7	Mandatory ongoing pool safety inspections	14
	Exemptions	4	7.1	Question	14
	Phase-in period	4	7.2	Improvement ideas	14
2.3	Discussion	5		Mandatory inspections at point of sale or lease	14
3	Rationalising pool fencing standards	6		Mandatory inspections following a complaint or an immersion	14
3.1	Question	6		Other swimming pools	14
3.2	Improvement ideas	6		Mandatory ongoing periodic inspections	15
	Number of different standards	6		Powers of entry	15
3.3	Discussion	7	7.3	Discussion	15
4	Restricting local government pool safety laws	8	8	New Australian Standard for pool fencing	18
4.1	Question	8	8.1	Question	18
4.2	Improvement ideas	8	8.2	Improvement ideas	18
	Local government local laws	8		Revised Australian Standard for pool fencing	18
	Model local laws	8	8.3	Discussion	19
4.3	Discussion	9	9	Miscellaneous	20
5	Mandatory follow-up inspections for new pools	10	9.1	Question	20
5.1	Question	10	9.2	Improvement ideas	20
5.2	Improvement ideas	10		Police forms	20
	Follow-up inspections	10		Future review of swimming pool safety laws	20
	Enforcement by private building certifiers	10		Education and awareness campaigns	20
	Temporary pool fencing	10		Revised cardiopulmonary resuscitation (CPR) signs	20
5.3	Discussion	11	9.3	Discussion	21
			10	Building classifications	22
				Response form	23



1 About the committee

The swimming pool safety review committee has provided information about how the Queensland Government could improve Queensland's swimming pool safety laws and adopt a new pool fencing standard.

The committee's report, which does not necessarily reflect the position or policy of the Queensland Government, has been provided to the government and may be used to inform policy development.

The committee was asked by the Queensland Government to consider a range of questions, including whether or not to:

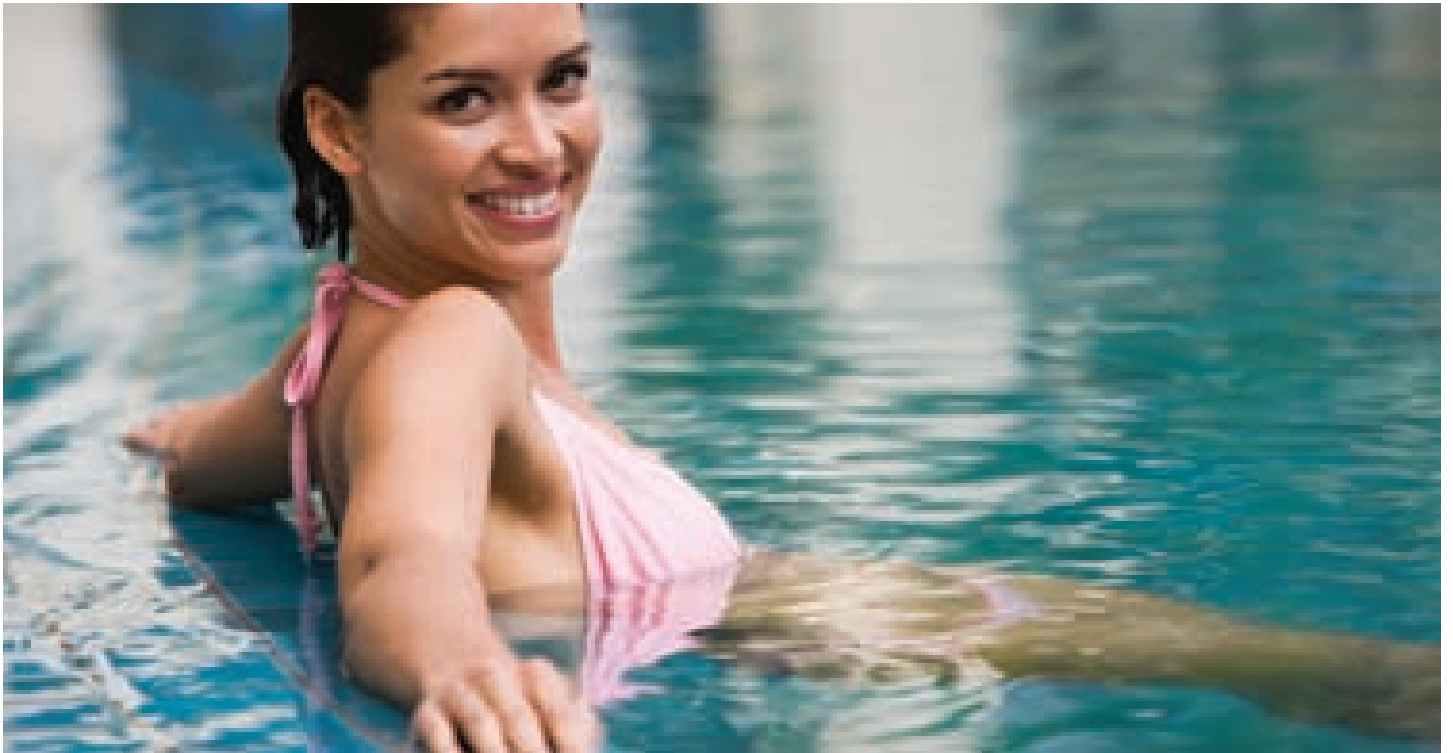
- widen Queensland's swimming pool safety laws to apply to more swimming pool types
- rationalise and reduce the number of different swimming pool fencing standards that apply in Queensland (depending on a pool's age)
- restrict local governments' ability to set different or additional pool safety laws to simplify and improve the consistency of Queensland's pool safety standards

- establish a mandatory requirement for building certifiers to undertake an inspection within a set time frame after giving building approval for a swimming pool, if they have not already done the final inspection
- develop and maintain a register of Queensland swimming pools
- set a requirement that all Queensland swimming pools be routinely inspected for compliance
- adopt the new Australian Standard for swimming pool fencing to replace the current standards, excluding the provisions that allow doors to form part of a barrier.

The swimming pool safety review committee comprises the following organisations and individuals:

- Australian Institute of Building Surveyors, Queensland/Northern Territory Chapter
- Commission for Children and Young People and Child Guardian

- Dawn Spinks, independent child drowning prevention expert
- Department of Community Safety (Queensland Ambulance Service)
- Department of Infrastructure and Planning (Chair)
- Housing Industry Association
- Kidsafe Australia (Queensland)
- Local Government Association of Queensland
- Queensland Health
- Queensland Injury Surveillance Unit
- Queensland Master Builders Association
- Royal Life Saving Society Australia
- Swimming Pool and Spa Association of Queensland.



2 Widening swimming pool safety laws

2.1 Question:

The committee considered whether to widen the swimming pool safety laws to apply to more swimming pool types and, if so, what the application should include.

2.2 Improvement ideas

Other swimming pools

The swimming pool safety laws should apply to all swimming pools associated with Class 3 buildings, such as hotels and motels and Class 4 buildings, such as caretaker dwellings, in line with most other states and territories. An appropriate phase-in period should apply for existing swimming pools and the same standards that apply to swimming pools associated with Class 1 buildings, such as houses and villas and Class 2 buildings, such as flats and dwelling units, should apply.

Mandatory application of the swimming pool safety laws to other swimming pools, such as community aquatic centres, is not considered appropriate for Queensland at this stage. However, local governments should still be able to have local laws for such swimming pools if they consider it necessary in the interests of safety.

Portable swimming pools

The maximum depth for a portable swimming pool that does not require fencing should be reduced from 450 mm to 300 mm in line with other states and territories.

Mandatory safety warnings on portable swimming pools are not considered appropriate for Queensland at this stage. However, an ongoing public education and awareness campaign should be undertaken regarding the dangers of portable swimming pools.

Indoor swimming pools

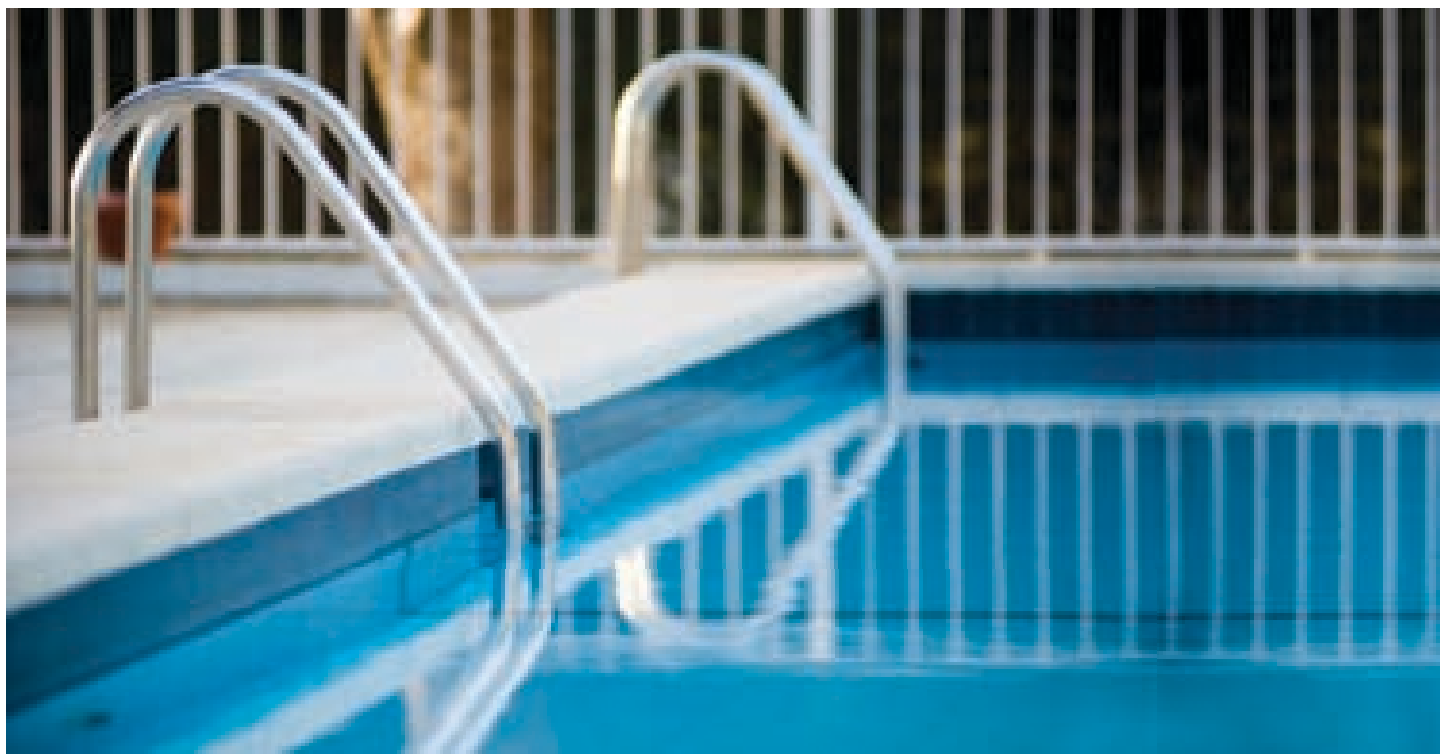
The swimming pool safety laws should also apply to indoor swimming pools in line with other states and territories. An appropriate phase-in period should apply for existing swimming pools. Child-resistant doors that comply with the Australian Standard should be allowed for indoor pools.

Exemptions

All existing swimming pool fencing exemptions should be revoked except those relating to people with disabilities. This would require an appropriate phase-in period.

Phase-in period

If a phase-in period is necessary, compliance should be required at point of sale or lease, or within five years, whichever occurs first.



2.3 Discussion

Aligning Queensland legislation more closely to national pool fencing standards, where appropriate, would provide a simplified and more consistent approach to pool fencing laws. It is expected that this approach would improve public understanding of the laws and improve compliance. It would also reflect coronial recommendations that Queensland's pool safety laws be simplified and made more consistent.

Other swimming pools

Unlike Queensland, most other state and territory pool fencing laws already cover pools associated with Class 3 and Class 4 buildings (see Section 10). The laws are legislated through the Building Code of Australia, or state and territory laws. Aligning Queensland with the national approach will improve safety and consistency.

Pools associated with Class 3 and Class 4 buildings also present similar risks to young children as do other residential pools in terms of typical supervision levels.

Statistically, a very small number of young children drown in other swimming pools, such as community aquatic centres, possibly due to increased supervision levels. No other state or territory currently requires these other swimming pools to be fenced.

However, some Queensland local governments consider it necessary to have local laws stating that these pools must be fenced. Having a model local law that local governments could adopt would promote a more consistent approach. This is discussed further in chapter 4.

Portable swimming pools

All other states and territories require portable swimming pools greater than 300 mm deep to be fenced. In Queensland this depth is 450 mm and the portable pool cannot be greater than 2000 litres in volume nor have a filtration system. Aligning Queensland with the national depth of 300 mm will improve safety and increase consistency.

Research suggests that mandatory safety warnings on portable swimming pools would be unlikely to reduce the number of children who drown or become immersed in portable pools. A public education and awareness campaign is considered to be a more effective approach.

Indoor swimming pools

Unlike Queensland, most other state and territory pool fencing laws already cover indoor pools. Under these laws, indoor pools are generally allowed to have child-resistant doors. The laws are legislated through the Building Code of Australia

or state and territory laws. Aligning Queensland with the national approach will improve safety and consistency.

Indoor pools are considered to present a similar risk to young children as outdoor pools, though outdoor pools are more popular in Queensland.

Exemptions

Previously, local governments could approve fencing requirements exemptions for swimming pools on rural or waterfront properties. They could also approve exemptions to allow double gates or child-resistant doors. However, these exemptions were not usually monitored and the circumstances that made the exemptions allowable often changed, such as a new owner moving in with young children.

Over time the pool fence legislation has been strengthened. The local governments ability to grant exemptions has been reduced to swimming pools on properties where the occupier has a disability and pool fencing compliance would mean the occupier could not access the pool. There is considered to be little justification on safety grounds to allow any previously allowed exemptions to continue, though a phase-in period may be necessary to enable owners to comply.



3 Rationalising pool fencing standards

3.1 Question:

The committee considered whether or not to reduce the number of different swimming pool safety standards that apply, depending on a swimming pool's age and, if so, what changes to make.

3.2 Improvement ideas

Number of different standards

The current swimming pool safety standards are too complex and confusing. The number of different standards should be reduced to one. Australian Standard AS 1926:2007, parts 1 and 2, should apply to all swimming pools regardless of their age. However, the allowance for child-resistant doors should continue to be restricted to pre 1 February 1991 swimming pools and indoor pools.

A phase-in period should apply for existing swimming pools. Compliance should be required at point of sale or lease, or within five years, whichever occurs first.

If work is done to change an existing fence (including child-resistant doors) for a pre 1 February 1991 pool, the whole fence should need to be upgraded to the post 1 February 1991 standard (without child-resistant doors). This won't apply to upgrades required by this review.



3.3 Discussion

Currently, 11 different safety standards can apply to swimming pools, depending on a pool's age. The main difference is that pre 1 February 1991 pools can use child-resistant doors as part of a barrier while newer pools cannot. This reflects more recent research, which shows that having a separate fence between the building and pool is safer than using the building's doors as a barrier. Other differences that have occurred since 1991 are more minor.

Having different standards can be confusing and does not promote a uniform understanding of pool safety laws. Simplifying the laws and making them more consistent would improve public understanding and compliance. It would also reflect coronial recommendations.

To do this, Queensland should adopt a single standard for all swimming pools regardless of the pool's age. However, the allowance for child-resistant doors should continue to be restricted to pre 1 February 1991 swimming pools and also to indoor pools. The appropriateness of adopting the revised Australian Standard (AS 1926:2007) as the single pool fencing standard is discussed further in chapter 8.

Banning child-resistant doors for pre 1 February 1991 swimming pools is not

considered to be appropriate at this stage because it would be too costly and disruptive. It would also put Queensland out of line with other states and territories that allow older pools to have child-resistant doors.

However, if work is done to change an existing fence (including child-resistant doors) for a pre 1 February 1991 pool, the whole fence should need to be upgraded to the post 1 February 1991 standard. For example, if a child-resistant door is moved or replaced as part of house renovations, the whole pool fence would have to be upgraded, without child-resistant doors. Similarly, if a pool fence is moved as part of backyard landscaping, the whole pool fence would have to be upgraded and child-resistant doors removed.

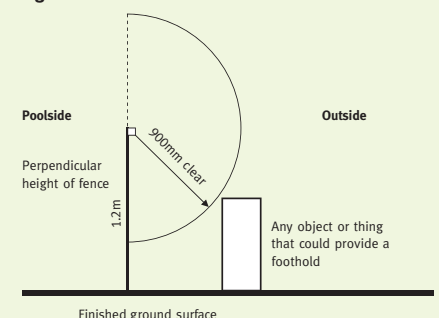
Rationalising the number of standards would result in few, if any, upgrades for many existing swimming pools. However, possible necessary upgrades could include:

- removing any climbable objects within the new 900 mm non-climbable zone (NCZ) above the top of the pool fence, (see Figure 1). The NCZ previously only applied out and down from the top of the pool fence

- displaying a cardiopulmonary resuscitation sign on pre 1 October 2003 swimming pools
- for pre 1 February 1991 pools, raising fence heights to 1.2 m and reducing gaps in the fence to 100 mm; for pre 1 February 1991 pools, changing gates to swing away from the pool.

These changes would improve the safety of older swimming pools and provide a simpler and more consistent set of rules for pool owners. However, a phase-in period may be necessary for owners to comply.

Figure 1



NOTE: For boundary fences, the non-climbable zone can be on the inside of the fence, provided the fence is 1.8 meters high.

The non-climbable zone is only required on one side of the pool fence.



4 Restricting local government pool safety laws

4.1 Question:

The committee considered whether or not to restrict local governments' ability to create local laws or other requirements for swimming pool safety and, if so, what restrictions should apply.

4.2 Improvement ideas

Local government local laws

The local governments' ability to create local laws for swimming pool safety should be narrowed so that local laws do not apply to swimming pools covered by state laws. Local governments should repeal existing local laws and other requirements within this category within six months.

Local governments should be able to create local laws for swimming pools that are not regulated under state law, such as community aquatic centres and matters not covered by state laws, such as water quality, if necessary.

Model local laws

To improve the consistency of local laws, the Queensland Government should develop a model local law for swimming pools not covered by state laws that local governments can adopt. It should do this within two years.



4.3 Discussion

Local government local laws

Currently, local governments can set higher safety standards than those set at state level. They can also set standards for pools not currently covered by the state laws, such as community aquatic centres, indoor pools and hotel pools. Broadening the application of state pool fencing laws to cover indoor pools and pools associated with Class 3 and Class 4 buildings (discussed in chapter 2), would remove the need for many local laws.

Although local laws for pool safety can have some benefits, they add to the complexity and inconsistency of Queensland's pool safety laws. Several coronial reports have recommended that pool safety laws be simplified and made more consistent to improve community understanding and compliance. This is difficult to achieve without addressing the local laws that apply in different Queensland local government areas.

Model local laws

Some local governments may wish to maintain local pool safety laws for pools not covered by state laws, such as community aquatic centres. By developing a model local law, the Queensland

Government would promote a more consistent approach to these laws. Local governments could adopt the model local law with little or no modification if they considered it suitable.





5 Mandatory follow-up inspections for new pools

5.1 Question:

The committee considered whether building certifiers should undertake an inspection within a set time frame after giving a building approval for a swimming pool if they have not already done a final inspection and, if so, what time frame should apply.

5.2 Improvement ideas

Follow-up inspections

Building certifiers should be required to undertake an inspection within a set time frame after giving a building approval for a swimming pool if they have not already done a final inspection.

The time frame should generally be six months. However, it should be extended to two years in cases where building approval is granted for a swimming pool and a new residential building. If the building approval is due to lapse earlier, then the final inspection should be done before it lapses.

Enforcement by private building certifiers

The current authority for private building certifiers to take enforcement action through legal proceedings should be removed. Local governments should undertake any court action. However, private building certifiers should be required to issue show cause and enforcement notices for pool safety law breaches and follow up on these notices.

Temporary pool fencing

While swimming pools are being constructed, compliant temporary pool fencing should be required until a permanent pool fence is installed.

A building certifier should inspect and certify this temporary fencing. Permanent fencing should be installed, inspected and certified before a pool is used.



5.3 Discussion

Follow-up inspections

Currently, owners of new pools must get a licensed building certifier to inspect and certify their pool fence before filling the pool with water. However, feedback suggests that some pool owners do not get a building certifier to do a final inspection. This is illegal and often means that the fence is never checked.

Research shows that a child is at greater risk of drowning in the first six months of using a new pool or moving into a new home with a pool. Therefore, getting final inspections for all new pools is essential.

One way to resolve this problem is to require building certifiers to undertake a mandatory final inspection within a set time frame after granting building approval for a new swimming pool, if they have not already done a final inspection. Six months is a reasonable time frame, though two years is needed when a pool is being built at the same time as a main residential building. However, if building approval is due to lapse before the six-month or two-year time frame, the mandatory final inspection would have to be done before it lapses.

Enforcement by private building certifiers

Although most owners who install new pools do the right thing, some owners refuse to comply with pool safety laws. Under existing laws, the building certifier can issue an enforcement notice to the owner and take court action if the owner does not comply.

Since 1998, pool owners have chosen whether to use a private building certifier or the local government to approve their pool. If they use a private building certifier, this certifier cannot be expected to take enforcement action though the courts if the owner refuses to comply. Court action can be costly and time consuming.

However, private building certifiers can be expected to issue enforcement notices and follow up whether the owner has complied. In many cases, this action is enough to ensure a pool owner complies.

In the few cases where court action is required, local governments should be responsible for this to protect the public interest. Private building certifiers would then need a mechanism for referring enforcement action onto local governments.

Temporary pool fencing

Current pool safety laws do not allow temporary fencing to be used during pool construction, though feedback suggests it is sometimes used. Pool safety is important during construction, and there is little reason not to allow temporary fences during this period. However, temporary fences should be inspected by a building certifier to ensure compliance with the fencing standards, and a permanent fence must be installed and inspected before the pool is used.



6 Registering swimming pools

6.1 Question:

The committee considered whether a register of Queensland swimming pools should be developed and maintained and, if so, who should do it and what information to include.

6.2 Improvement ideas

Swimming pool register

Local governments should be required to develop a register of swimming pools in their area, whether or not a mandatory ongoing inspection program is introduced. The register should include at least:

- the owner's name and address
- the property address
- the pool's age or the date it was constructed
- details of any exemptions or variations from pool safety laws that have been granted
- details of any immersion incidents that have been reported or pool safety complaints that have been made
- the name of the authority or private building certifier who approved the pool, and any subsequent fence modifications
- the date that any fence modifications were approved after the pool was constructed
- the dates of any previous inspections and the inspector's name

- the results of any previous inspections, including non-compliance details
- details of any enforcement action taken relating to the pool.

Local governments could obtain information about the location of swimming pools from many sources, including building approval records, aerial photography, complaints and observations.

Pool owners should be required to notify their local government that they have a swimming pool within a six-month phase-in period. Separate notification should not be needed for new swimming pools because the pool's building approval will be sufficient notice.

Local governments should provide register information to the Queensland Government if requested. This will assist with any future pool safety reviews and provide important statistical information for future swimming pool safety awareness campaigns.

Model swimming pool register

The Queensland Government should develop a model swimming pool register for local governments to use.



6.3 Discussion

Swimming pool register

Currently Queensland does not have a register or accurate figure of its swimming pool numbers, though several coronial reports have recommended that each local government area develop a swimming pool register.

The number of pools in Queensland is estimated to be between 300 000 and 600 000. Several local governments have already developed registers using information from building approval records, aerial photography, complaints, observations and other sources.

If an ongoing inspection system is to be introduced (discussed in chapter 8), each local government will need a register of swimming pools. A register would also help the Queensland Government undertake pool safety reviews and would provide statistical information for pool safety awareness campaigns.

Local governments can already access much of the information needed to develop a swimming pool register. For example, local governments keep records of pool building approvals, many local governments have aerial photography databases and local governments receive most of the pool safety complaints. If pool owners were required to notify their local government that they have a swimming pool, it would help local governments develop a comprehensive register.

Model swimming pool register

A model swimming pool register would help to promote consistency among local governments and help local governments who have not already established a register. It is expected that the register would be developed in an electronic format for computer use.



7 Mandatory ongoing pool safety inspections

7.1 Question:

The committee considered whether Queensland swimming pools should be routinely inspected for compliance and, if so:

- whether inspections should be done at set intervals and, if so, what intervals
- whether compliance inspections should be required when a property is sold or leased
- who should do the inspections
- what, if any, additional powers would be needed for inspections
- whether an inspection fee should apply and, if so, how much
- whether pool fence inspectors should require mandatory training and licences.

7.2 Improvement ideas

Mandatory inspections at point of sale or lease

If a property has a pool, the owner should have to obtain a pool safety inspection and certificate before selling or leasing the property, unless the pool does not need to be fenced under state law.

The owner should be granted an exception if they re-sell or re-lease a property within one year for shared pools, or two years for non-shared pools, of the last certificate. This would prevent overly frequent inspections.

Bodies corporate should be responsible for obtaining the compliance inspections in complexes with shared pools, such as apartment buildings, and giving a copy of the certificate to vendors and lessors within the complex.

Only licensed pool safety inspectors should perform the mandatory inspections. Both private and local government inspectors should be able to be licensed. Inspectors should be required to undertake suitable training and be licensed under a system similar to the licensing system for building certifiers.

Inspection fees should not be regulated.

Mandatory inspections following a complaint or an immersion

Local governments should be required to perform a pool safety inspection after receiving a pool safety complaint or following an immersion incident (fatal or non-fatal), unless the pool does not need to be fenced under state law.

Hospitals should be required to notify the relevant local government if they receive a patient who has been involved in an immersion incident (fatal or non-fatal) in a swimming pool, unless the pool does not need to be fenced under state law.

Other swimming pools

Local governments should be required to notify owners of swimming pools on properties not captured by the point of sale or lease, complaint or immersion inspection system (see p 16), at least every four years that an inspection is recommended. This would not apply to pools that do not need to be fenced under state law. Owners should be required to notify the local government



if they have their pool inspected, but local governments should not be required to follow up on whether an inspection was undertaken.

At this stage it is not considered appropriate to make it a mandatory requirement to inspect swimming pools on Queensland properties not captured by the point of sale or point of lease, complaint or immersion inspection system. However, local governments should still be able to inspect these pools at any time.

Mandatory ongoing periodic inspections

A mandatory ongoing periodic inspection system, such as that operating in Western Australia, is not considered appropriate for Queensland at this stage.

Powers of entry

Powers of entry should be strengthened to allow local government officers to inspect swimming pools without the occupiers consent or a court warrant, but not for entry inside a dwelling, such as an indoor pool. This power will be limited to pool safety issues.

7.3 Discussion

Mandatory inspections at point of sale or lease

A mandatory swimming pool safety inspection at point of sale or lease is considered to be the most appropriate option for an ongoing pool safety inspection system in Queensland. Under the system, a property owner would have to obtain a compliance certificate before they could sell or lease a property with a pool, unless the pool does not need to be fenced under state law. Currently a property inspection is often performed before the property's sale is finalised. Therefore, a mandatory swimming pool safety inspection could potentially be included as part of that process to reduce costs.

It is estimated that inspection costs would be approximately \$90 to \$130 per inspection. However, if the inspections were part of an ongoing, periodical compliance program rather than one-off inspections (such as in the Western Australian model discussed below), the process could be more efficient and reduce inspection costs. (This is due to the large number of pools that a local government could inspect on a planned cyclical basis within the local government area.)

If the owner of a property with a pool re-sells or re-leases not long after the certificate is granted, they should not need to arrange for another inspection as significant maintenance problems would be unlikely to have arisen since the previous inspection. For example, in a large apartment complex with a shared swimming pool, several apartments could be leased every month, so it is not reasonable to inspect the shared pool for every new lease.

Western Australia is the only state or territory that currently requires ongoing pool safety inspections, on a cyclical basis every four years. The Western Australian system is discussed further below. However, some form of ongoing pool safety inspection system in Queensland would be appropriate. Several Queensland coronial reports have recommended a mandatory point of sale or lease inspection.

As stated previously, research shows that a child is at significantly higher risk of drowning in a swimming pool in the first six months of getting a new pool or moving into a new home with a pool. A point of sale or lease inspection system would help to ensure that pool safety is compliant during this high-risk period. This system would also give sellers and lessors greater incentive to address any non-compliance than a periodical inspection system,



because they would risk losing the property sale or lease due to non-compliance.

The average home ownership term is thought to be about 15 years and it has been suggested that people move home every seven years on average. For rental homes, statistics indicate that the average lease period is about one year, though some tenants do renew their lease after this period. Based on these figures, a point of sale or lease inspection system would be reasonably effective in covering Queensland's pools.

Therefore the point of sale or point of lease system is considered adequate, particularly given that it will capture a large proportion of pools. The local government could still inspect pools not captured by this system, or the immersion or complaint system discussed below, at any time.

If an immersion incident occurs in a pool or someone makes a complaint about a pool, the pool probably does not comply with safety laws. Therefore, it is appropriate to require the local government to inspect these pools. This already occurs in some cases, particularly for fatal immersions. Hospitals should assist the system by reporting immersion admissions to local governments.

If swimming pools are located on properties not captured by the point of sale or lease,

complaint or immersion inspection systems, local governments should notify pool owners at least every four years that an inspection is recommended. This could help to raise pool safety awareness. While it may be a burden for local governments to follow up on whether an inspection was done, owners should be required to notify the local government if their pool is inspected. The local governments would then place this information on file for future reference.

All mandatory inspections should be performed by properly trained and experienced inspectors. A licensing system would ensure that only people who meet minimum standards could perform the ongoing pool safety inspections. A licensing system could also allow inspectors to be audited to maintain professional standards. Inspectors who do not do the right thing could be disciplined or have their licence cancelled. Licence categories may already exist that could be used for pool safety inspector licensing.

Allowing both private and local government inspectors to be licensed would minimise the burden on local governments and encourage competition. Local governments could decide whether to provide an ongoing, mandatory, pool safety inspection service. Local governments would still be responsible for undertaking any enforcement action and accepting

development applications for new pools. Competition would help to keep inspection costs down, particularly if inspection fees are not set by law.

Mandatory ongoing periodic inspections

An alternative option for a mandatory ongoing inspection system is a system where pools must be inspected on a cyclical basis at set intervals. Several Queensland coronial reports have recommended this system. Western Australia is the only state or territory that currently has this system, which was introduced in 1992 and requires local governments to inspect swimming pools every four years. There was some controversy when the system was introduced but it is now well accepted.

Local governments may charge each pool owner up to \$55 a year for this service, though actual fees charged are lower. They typically range between \$13.20 and \$33.00 per year, with some local governments also offering pensioner discounts. The fees generally cover the costs of performing the inspections. Some local governments in Western Australia use private organisations, such as the Royal Life Saving Society, to undertake the inspections.

Compared to the point of sale or lease system, the Western Australian system



captures a greater proportion of pools and potentially offers greater efficiency due to the large number of pools that local governments inspect on a planned, cyclical basis within the local government area.

The first cycle of inspections in Western Australia was the most difficult.

Compliance rates have doubled to 80 per cent since the four-yearly inspection system was introduced. Drowning statistics have also fallen, but it is unclear whether the fall is due more to the inspection system or dramatically more stringent pool fencing standards introduced around the same time.

New South Wales recently considered a similar system but did not proceed, mostly due to cost concerns. If the Western Australian system was introduced in Queensland, pool owners collectively would pay approximately \$66 million per inspection cycle (based on 300 000 Queensland pools and assuming the maximum fee of \$55 per year was charged). This cost would increase to approximately \$132 million per inspection cycle for 600 000 pools.

Apart from cost concerns, the Western Australian system would burden Queensland local governments, who would be responsible for ensuring the inspections are performed and for any necessary

enforcement action.

Compared to the point of sale or lease system, the Western Australian system may give pool owners less incentive to address non-compliance, as they would not be under threat of losing a property sale or lease due to non-compliance.

Powers of entry

Authorised local government officers in Queensland can currently inspect swimming pools at all reasonable times if urgent action is necessary. For example, if they receive a complaint that a pool is unfenced and dangerous, they can enter the property. In other cases, they need the occupier's consent to enter or a warrant from the court.

If a Queensland local government has an approved inspection program in place for swimming pools, authorised local government officers can inspect swimming pools at all reasonable times of the day or night. However, they cannot enter a residential building or structure, such as to inspect an indoor pool, without the occupier's consent or a warrant from the court.

In states such as Western Australia, authorised local government officers have stronger powers of entry to inspect swimming pools, even if urgent action is not necessary. These powers allow ongoing,

routine pool safety inspections. Officers still usually seek the owner's consent before inspecting a pool, but the entry powers provide a last resort for officers to inspect pools if the owner is not present or refuses entry, or in emergencies.

Similarly, stronger entry powers exist in Queensland for certain fire safety matters. For example, authorised fire officers can enter premises for fire prevention reasons. However, they generally cannot enter a dwelling (other than a budget accommodation building) without the occupier's approval.

Given the seriousness of pool safety, it is considered appropriate to strengthen local governments' powers to inspect swimming pools to allow entry without the occupier's consent or a court warrant, although entry inside a dwelling, such as to inspect an indoor pool, is only considered appropriate with the occupier's agreement or a warrant from the court. Any enhanced entry powers should also be restricted so that local governments cannot deal with other unrelated issues while inspecting a swimming pool.



8 New Australian Standard for pool fencing

8.1 Question:

The committee considered whether to adopt the revised Australian Standard for pool fencing (AS 1926: 2007 parts 1 and 2) in Queensland to replace the current standard and, if so, whether anything in the revised standard would reduce safety and therefore should be excluded.

However, any allowance in the revised standard for the use of child-resistant doors would continue to be restricted to pre-1 February 1991 pools and also for indoor pools if Queensland adopted the standard.

8.2 Improvement ideas

Revised Australian Standard for pool fencing

The revised Australian Standard for pool fencing (AS 1926: 2007 parts 1 and 2) is not considered to reduce safety and should be adopted in its entirety in Queensland. However, the allowance for the use of child-resistant doors should continue to be restricted to pre-1 February 1991 pools and indoor pools.

The revised Australian Standard should be adopted through the Building Code of Australia as a Queensland variation.



8.3 Discussion

Revised Australian Standard for pool fencing

The revised Australian Standard (AS 1926: 2007 parts 1 and 2) is the new version of the standard for pool fencing. New South Wales is the only state or territory to adopt this standard so far.

A specialist national committee, comprising leading child and water safety experts, developed the revised standard which reflects the latest research and experience in swimming pool safety.

The revised standard increases some requirements and clarifies other areas of uncertainty. It also includes changes that address requirements in the previous standard that added little or no safety benefit. Some of the changes reflect variations that already apply in Queensland, such as changes to the non-climbable zone (NCZ) and boundary fence heights. The changes in the revised standard include:

- changing the size of the NCZ from 1200 mm to 900 mm, and extending the NCZ to above the top of the fence (see Figure 1, p 7). The NCZ was previously only applied out and down from the top of the pool fence

- increasing the height for boundary fences from 1.2 m to 1.8 m to account for climbable objects on the neighbour's side, such as barbecues, that could allow access to the pool area
- changing the minimum height for balconies above the pool area from 2.4 m to 1.8 m
- changing the minimum height for retaining walls above the pool area from 2.4 m to 1.8 m, and requiring additional fencing where a retaining wall intersects with a pool fence
- allowing permanent bodies of water, such as canals, lakes and rivers with a water depth no less than 300 mm at the edge of the pool area, to form part of the barrier.

Statistics indicate that the majority of drowning deaths in private swimming pools involve children less than five years of age. Therefore, the revised Australian Standard aims to create a child-resistant barrier that makes it difficult for a young child to gain access to a pool area. However, the barrier's effectiveness relies on its location, installation and maintenance. While pool fencing is proven to reduce drowning rates, it is no substitute for vigilant adult supervision.

Research suggests that three of the most common ways young children gain access to pools are:

- through gates that are propped open or do not close automatically
- due to a lack of fencing or missing fencing panels
- through defective doors, including disconnected or faulty door closers, or faulty door latches (for older pools where child-resistant doors are allowed).

The revised standard reflects recent findings that young children are more likely to access a pool area through or under fences, or through defective or propped-open gates.

Adopting the revised Australian Standard in Queensland through the Building Code of Australia, as a Queensland variation, would enable a more flexible performance-based approach to be used where appropriate.

Adopting the revised standard would address some coronial recommendations that arose from inquests into child drownings, including that the Australian Standards relating to swimming pools be updated and upgraded. It would also consolidate Queensland's pool fencing standards into the national building code for ease of reference.



9 Miscellaneous

9.1 Question:

The committee considered other miscellaneous matters relevant to improving Queensland's swimming pool safety laws.

9.2 Improvement ideas

Police forms

Police forms used to record investigations of drowning or injury incidents in pools should be improved to make them simpler to use and ensure they include all essential information.

Future review of swimming pool safety laws

A review of Queensland's swimming pool safety laws should be undertaken within five to seven years to determine how effective the laws have been in improving compliance, and reducing drowning and serious injuries among young children.

Education and awareness campaigns

The Queensland Government should provide significantly more funding for a well-coordinated, ongoing education and awareness campaign each year, particularly during the summer months. The campaign should target swimming pool owners and the general public. The government should also promote the importance of swimming pool safety to local governments.

Revised cardiopulmonary resuscitation (CPR) signs

The current requirement for CPR signage around swimming pools should be changed to reflect the current CPR method that the Australian Resuscitation Council adopts. However, existing signage should not need to be upgraded.



9.3 Discussion

Police forms

Having sufficient information to accurately analyse drowning trends and rectify issues where possible is important for improving pool safety. The forms that the police currently use after a swimming pool drowning or injury incident are complex, and difficult to understand and use. Making the forms more user-friendly would ensure that police record all important details on the forms.

Future review of swimming pool safety laws

A review of Queensland's swimming pool safety laws within five to seven years would give adequate time to determine how effective the laws have been in improving compliance, and reducing drowning and serious injuries among young children. Necessary modifications could be made after the review.

Education and awareness campaigns

An annual, well-coordinated, ongoing education and awareness campaign is an important tool in improving swimming pool safety, particularly during the summer months.

The Queensland Government has undertaken summer pool safety campaigns

for several years, which have included radio, newspaper, cinema and billboard advertisements, editorials and brochure mail-outs, guidelines and posters. The most recent campaign involved child entertainers, The Wiggles, as ambassadors.

Future campaigns could be further improved with additional funding, greater media attention and better coordination with any other campaigns (private and government). The government could also consider running joint campaigns with other government departments, industry, and water and child safety organisations. Promoting the swimming pool safety campaign at appropriate conferences and home shows would also be valuable.

Future campaigns should target swimming pool owners and the general public. These campaigns could target specific matters, such as swimming lessons, portable pools, supervision, CPR skills, and fence and gate maintenance.

The government would also need to complement any new laws resulting from this review with a well-funded and extensive education and awareness package for swimming pool owners, local governments, pool safety inspectors, pool builders and the public. This should include user-friendly guidelines, information, advertisements and statewide training sessions.

The Queensland Government also needs to promote the importance of swimming pool safety to local governments. This could include:

- promoting the importance of local governments undertaking swimming pool safety inspections
- encouraging local governments to make information and guidelines available to ratepayers
- encouraging local governments to give a high priority to swimming pool safety issues
- making local governments aware of the model local laws and swimming pool register discussed in chapters 4 and 6.

Revised cardiopulmonary resuscitation (CPR) signs

Queensland laws already require that all swimming pools display a CPR sign, but they do not specify the details of the CPR method. In line with international trends, the Australian Resuscitation Council has recently adopted a revised CPR method that is simpler and easier to understand. The previous method is still effective but more complex. Requiring new signs to reflect the revised CPR method would help Queenslanders better understand how to perform CPR in an emergency.

10 Building classifications

The following is an extract of the building classifications from the Building Code of Australia 2008.

A3.2 Classifications

Buildings are classified as follows:

Class 1: one or more buildings which in association constitute—

- (a) Class 1a—a single dwelling being—
 - (i) a detached house; or
 - (ii) one of a group of two or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, town house or villa unit; or
- (b) Class 1b—a boarding house, guest house, hostel or the like-
 - (i) with a total area of all floors not exceeding 300 m² measured over the enclosing walls of the Class 1b; and
 - (ii) in which not more than 12 persons would ordinarily be resident, which is not located above or below another dwelling or another Class of building other than a private garage.

Class 2: a building containing 2 or more sole-occupancy units each being a separate dwelling.

Class 3: a residential building, other than a building of Class 1 or 2, which is a common place of long-term or transient living for a number of unrelated persons, including:

- (a) a boarding-house, guest house, hostel, lodging-house or backpackers accommodation; or
- (b) a residential part of a hotel or motel; or
- (c) a residential part of a school; or
- (d) accommodation for the aged, children or people with disabilities; or
- (e) a residential part of a health-care building which accommodates members of staff; or
- (f) a residential part of a detention centre.

Class 4: a dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.

Class 5: an office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.

Class 6: a shop or other building for the sale of goods by retail or the supply of services direct to the public, including:

- (a) an eating room, cafe, restaurant, milk or soft-drink bar; or
- (b) a dining room, bar, shop or kiosk part of a hotel or motel; or
- (c) a hairdresser's or barber's shop, public laundry, or undertaker's establishment; or
- (d) market or sale room, showroom, or service station.

Class 7: a building which is:

- (a) Class 7a—a car park; or
- (b) Class 7b—for storage, or display of goods or produce for sale by wholesale.

Class 8: a laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale, or gain.

Class 9: a building of a public nature:

- (a) Class 9a—a health-care building, including those parts of the building set aside as a laboratory; or
- (b) Class 9b—an assembly building, including a trade workshop, laboratory or the like in a primary or secondary school, but excluding any other parts of the building that are of another Class; or
- (c) Class 9c—an aged care building.

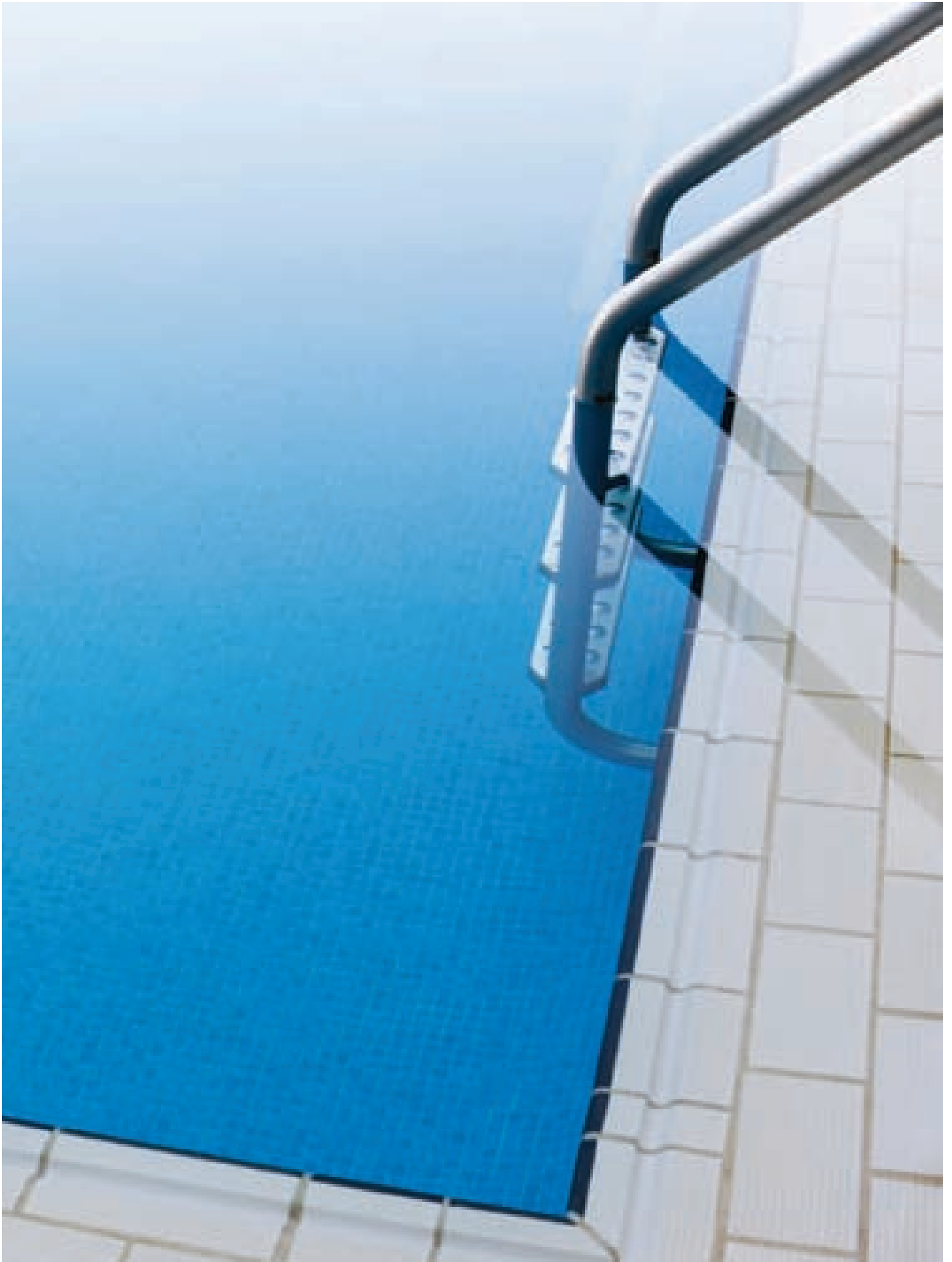
Class 10: a non-habitable building or structure:

- (a) Class 10a—a non-habitable building being a private garage, carport, shed, or the like; or
- (b) Class 10b—a structure being a fence, mast, antenna, retaining or free-standing wall, swimming pool, or the like.

Response form

Your comments and suggestions will help the Queensland Government to develop and finalise pool safety improvements.

By completing and submitting the response form, you will assist Queensland Government in understanding community attitudes to the suggested pool safety improvements. You can also complete the response form online at **www.getinvolved.qld.gov.au**





Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Don't know/ Need more information
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Swimming pool fencing laws should be rationalised so that there is only one law for pools.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Existing swimming pools should meet pool fencing laws at point of sale or lease or within five years, whichever occurs first.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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One model law should be developed for local governments to use for swimming pool fences not covered by state laws.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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New swimming pools should be inspected within six months and new houses with pools should be inspected within two years.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Swimming pools should be inspected and a certificate issued before properties with swimming pools can be sold or leased.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Compliant temporary swimming pool fencing should be allowed until a permanent pool fence is in place.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Local governments should develop and maintain a swimming pool register.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Pool fence inspectors should be trained and licensed.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Hospitals should notify local government when patients who have been involved in a swimming pool immersion incident are admitted.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Local governments must undertake a swimming pool safety inspection upon receiving a pool safety complaint or following an immersion incident.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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New pools should be required to display the CPR signage as adopted by the Australian Resuscitation Council.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Of all of the ideas considered in this review, which do you think is most important?

(choose one only)

- ☐ Application of swimming pool safety laws
- ☐ Rationalisation of swimming pool fencing standards
- ☐ Restriction on local government swimming pool safety laws
- ☐ Mandatory follow-up inspections for new swimming pools
- ☐ Register of swimming pools
- ☐ Mandatory ongoing swimming pool safety inspections
- ☐ New Australian Standard for swimming pool fencing
- ☐ Miscellaneous

Why do you say that?

(please explain)





Do you support an expansion of Queensland swimming pool laws? (please explain)

How often do you believe Queensland's swimming pool safety laws should be reviewed (e.g. 5 years, 10 years, 12 years). Why do you say that? (please explain)

Are there any other actions you believe the Queensland Government should take regarding Queensland's swimming pool safety laws? (Please describe these).





How did you find out about this consultation/survey?

☐

Newspaper advertisement

☐

Department of Infrastructure and Planning website

☐

Local council

☐

Word of mouth

☐

Newspaper article

☐

Letter

☐

Other—please specify

Would you like to receive from the Department of Infrastructure and Planning:

☐

emailed updates about this project/plan

☐

our quarterly departmental newsletter

Email address:

Thank you for your feedback.

Please note: an acknowledgement of receipt of this response form will not be provided.

(Optional)

Name:

Postal address:

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Email address:





Every drop counts

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