

Home Pool Safety

Summary of the Victorian Situation
March 2017

Life Saving Victoria

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Home Pool Safety- Summary of the Victorian Situation

The Victorian Swimming Pool and Spa Safety Committee

The Victorian Swimming Pool and Spa Safety Committee (the Committee) was formed in 2010 to provide recommendations and strategies aimed at reducing the number of drowning deaths of young children in home swimming pools.

In 2012, the Committee provided a 'Summary of the Victorian Situation' report to Government and Industry stakeholders. The Committee includes Life Saving Victoria (LSV), Kidsafe, the Building Commission, Swimming Pool and Spa Association of Victoria (SPASA), Australian Institute of Building Surveyors, Municipal Association Victoria (MAV) and Consumer Affairs Victoria (CAV).

This 2017 version of the report has been updated and is representative of the opinion of LSV. It is planned for the document to be circulated to the Committee for feedback and to establish if it is an appropriate time for the Committee to reconvene.

What We Know

- There is widespread general unawareness of obligations regarding pools and spas
- The vast majority of Victorian home pools safety barriers are non-compliant
- There have been multiple coronial inquests calling for changes to pool safety barrier laws
- Mandatory pool inspections have a positive effect on compliance rates
- Mandatory pool inspection can significantly reduce drowning deaths in young children

Background

Fatal and non-fatal drowning of children in Victoria

Much work has been done over previous years to dramatically reduce the drowning rate of children (0-4 years) by more than half. However, children in this age group still have the greatest overall risk of drowning with the highest age-specific rate of both fatal (0.94 per 100,000 population) and non-fatal (11.44 per 100,000 population) drowning from 2004/05 to 2013/14.

There have been 15 drowning deaths and 109 hospital treated non-fatal drowning incidents in children (0-4 years) in a home pool or spa from 2000/01-2013/14. While there was a decrease from 2000/01 to 2004/05, records indicate an increase from 2005/06 to 2009/10 and these numbers have not changed in the latest 5 year period (2010/11 to 2014/15). Similar to a previous report by Bugeja (2004), coronial records indicate that the deaths primarily resulted from a combination of inadequate carer supervision immediately prior to the drowning and inadequate safety barriers (e.g. faulty gate lock, gate left propped open or door left open) between the child and the pool/spa.

Private swimming pools and spas

The number of households in Victoria with a swimming pool continues to increase, with 146 000 (6.9%) of the 2.1 million households in Victoria in 2010, having a swimming pool (ABS, 2010). There is concern therefore that as the number of swimming pools continues to increase, over time there



will also be an increase in the number of pools non-compliant with Australian standards. In Western Australia 16% of barriers previously inspected became non-compliant over a 4 year period (Leaversuch & Zic, 2008).

Recommendations

There are a number of recommendations for improving home pool safety in Victoria identified by the Committee, listed on the following pages.

Summary of Recommendations

Education

1. Ongoing education for home pool owners promoting pool safety, supervision and owner responsibility for maintenance. Develop/update resources to ensure consistent message and wording. Develop an action plan for dissemination of resources.
2. Mandate the display of a current CPR sign in all home pool/spa areas.

Inspection

3. Introduce mandatory certificate of compliance for home pool safety barriers prior to sale or lease of a property, conducted by independent inspectors.
4. Introduce an appropriate Swimming Pool Safety Inspectors course to reduce the reliance of inspection currently limited to registered, i) building surveyors and ii) building inspectors.
5. Develop a single central home pool inspection tool and management database to ensure consistency of inspections undertaken and reported.

Communication / Reporting

6. Introduce a notification system following a fatal or non-fatal immersion incident of a child under 5 years in a home pool or spa. Notification to go to the following groups:
 - i) Local government where incident occurs to conduct a follow-up compliance inspection
 - ii) Department of Human Services (DHS) to follow-up any issues of child neglect.
7. Collect data and report on the number of home pool inspections conducted and the level of compliance within each local government area.

Other

8. Explore the possibility of an incentive system for home pool owners who maintain their home pool safety barrier and who remain compliant E.g. reduced insurance premiums, council rates, home owner awards.

Explanation of Recommendations

1. Ongoing education for home pool owners promoting pool safety, supervision and owner responsibility for maintenance.

The Victorian Government through the Play it Safe by the Water campaign has recognised the need to promote supervision of children around water across all aquatic environments. There is an ongoing focus on water safety around the home highlighting dams, baths and in particular the home pool. Other awareness raising in Victoria is provided through the Royal Life Saving Society Australia's Keep Watch program, with information disseminated through Victorian Maternal and Child Health Centres. Kidsafe run an annual "Close the gate" campaign that links checking your pool gate and fence compliance with adjusting your time for day light savings.

There is an ongoing need for a public education campaign specifically promoting pool safety and the responsibility of the owner for maintenance of the home pool safety barrier. This would be most effective through the development of consistent resources and an action plan for dissemination through all major stakeholders.

A Victorian Building Authority (VBA) report (Pool and Spa Research 2014/15) found that "a general unawareness of obligations regarding pools and spas was a recurring theme when Councils visited residents' properties and inspected pools". The same document identified that 40.4% of recipients had not received information about their maintenance obligations in relation to safety barriers and gates.

City of Monash Council inspected 151 pools in the year to November 2016 which showed that 143 pools were not compliant. This matches the anecdotal evidence provided from SPASA that the majority of home pool fencing their members come across have non-compliant fencing and gates.

2. Mandate the display of a current CPR sign in all home pool/spa areas.

It is an important requirement of parents and carers of young children to know how to administer Cardiopulmonary Resuscitation (CPR) in the case of an emergency. Even those who have completed certification in a CPR course would still benefit from a prominent sign explaining how to act in an emergency, as CPR without delay can often improve the health outcomes of a drowning victim.

This was introduced as part of the QLD home pool legislation changes in 2010. This is also a requirement for NSW home pools.

3. Introduce mandatory certificate of compliance for home pool safety barriers prior to sale or lease of a property, conducted by independent inspectors.

The introduction of a certificate of compliance prior to sale or lease of a property would ensure that any issues surrounding the pool barrier are rectified before transfer of the property. Home pool owners would be made responsible for ensuring pool safety barriers are compliant and would be motivated to do this so they can sell or lease their property.



In 2010, QLD introduced a compulsory safety inspection and certificate of compliance prior to the sale or lease of a property. These are conducted by independent pool safety inspectors who issue either a certificate of compliance or a nonconformity notice with details of how the pool does not comply and what needs to be done to rectify this. Private inspection companies charge approximately \$200 per inspection. Similar requirements are in place in QLD and NSW.

In 2016 Swimming Pool and Spa Associated CEO Brendan said that Victoria was lagging dangerously behind other states when it came to pool safety. He Watkin stated that “what we know is our members are in the field seeing backyard pools seven days a week and many, many pool barriers have not been maintained and are not safe,” he said.

4. Introduction of an appropriate Swimming Pool Safety Inspectors course to reduce the reliance of inspection currently limited to i) registered building surveyors and ii) registered building inspectors.

There is currently a limitation on the completion of home pool safety inspections to i) registered building surveyors and ii) registered building inspectors. It is proposed that a controlled increase in the number of authorised inspectors may support the increase of inspection regimes by Local Government Authorities.

It is proposed that a course similar to the Swimming Pool Safety Inspectors course (31005QLD) is developed and delivered in Victoria. Following the development of the course by RLSSA and RLSS QLD the course is now also delivered and accepted in NSW and SA.

5. Development of a single inspection tool and management database to ensure consistency of inspection undertaken and reported

One of the challenges identified by RLSS State and Territory Member Organisations regarding home pool inspections has been the lack of consistency in reporting by those persons undertaking home pool safety inspections. The development of a single inspection tool and management database would support consistency in this area. It would also enable appropriate stakeholders to contribute to the development and maintenance rather than inspectors all maintaining their own versions.

6. Introduce a notification system following a fatal or non-fatal immersion incident of a child under 5 years in a home pool or spa. Notification to go to the following groups:

- i) Local government where incident occurs to conduct a follow-up compliance inspection
- ii) Department of Health and Human Services (DHHS) to follow-up any issues of child neglect

It is recommended that an immersion notification system be introduced in Victoria with notification to the relevant local government area to follow up with a pool safety inspection to identify any issues of compliance that need to be rectified. It would also be of benefit to notify DHS so that any

issues of child neglect can be followed up to prevent another incident with the same child or with other children from the same household.

In 2010, QLD introduced an immersion notification system to ensure that any fatal or non-fatal drowning incidents of children under 5 years were followed up to prevent similar incidents from occurring again.

7. Collect data on the number of home pool inspections conducted and the level of compliance within each local government area.

Currently there is a lack of accurate data collected and collated on the number of home pool inspections and the level of compliance within Victorian local government areas. This would not be an opportunity to highlight councils that do not conduct many home pool inspections or have a high level of non-compliance, but to help build a picture of the current state of compliance of Victorian home pools. It is currently unknown if non-compliant home pools are a major issue of concern in Victoria due to a lack of reported data in this area.

In November 2016 an article in the Leader newspaper identified that “Councils are struggling to enforce pool safety laws with many admitting they have no idea how many pools are in their municipalities and most checking only a tiny number each year — and the vast majority fail safety checks.”

8. Explore the possibility of an incentive system for home pool owners who maintain their home pool safety barrier and who remain compliant E.g. reduced insurance premiums, council rates, home owner awards.

The Committee agreed that an incentive system for home pool owners to maintain their pool safety barrier should be looked into. This would be a positive approach to improving compliance of home pool safety barriers rather than a negative fines system as implemented in other states.

Other Matters Still for Consideration

There are other issues for consideration surrounding home pool compliance in Victoria. The Committee believes these require further investigation, such as a cost-benefit analysis.

Introduce a state-based register for all home pools and spas

The benefits of developing a home pool register have been identified, such as providing an accurate picture of the number of home pools within Victoria, as well as their locations. The register could be used for targeting education campaigns and disseminating information relevant to home pool owners. It would also provide councils with information on where pools are located to conduct inspections for compliance.

In WA, home pools and spas have been required to be registered with the relevant local government for 20 years. More recently, QLD (2011) introduced a state-based register where home pool owners were required to register their pool within an initial period of 12 months before penalties would apply. A similar approach has been taken in SA (2014) and NSW (2013).

Regular mandatory inspection system for all home pools and spas

The Committee has highlighted some issues associated with a mandatory inspection system, including the difficulty an inspector/surveyor would have in knowing when the construction of the pool began, and therefore which legislation would apply. There may be significant costs associated with introducing a mandatory inspection system, and this may also place a burden on local councils that have many other issues to manage. Currently only municipal or private building surveyors are allowed to inspect home pools for compliance, so this may have to change to allow other independent pool safety inspectors to meet the demand for inspections.

Currently, WA is the only Australian state that has a mandatory inspection system in place. This is a 4-year cyclic inspection system that has been in operation since 1992. There have been significant improvements in compliance, with evidence of improved compliance during first inspection up from 45% in 1991 to 65% in 2016.

Along with this, there has also been a decrease in 0-5 year olds drowning in home pools and spas. In the five years 2000 to 2005 there were 22 drownings, and in the five years 2011-2016 there were 13 drownings.

Retrospective legislation to remove previous home pool safety barrier exemptions to bring all barriers up to current standard

There are currently three sets of requirements for home pool/spa barriers in Victoria, based on when the pool was constructed:

1. Before 8th April 1991
2. between 8th April 1991 and 30th April 2010, and;
3. After 30th April 2010.

By introducing retrospective legislation, all current exemptions would be removed and one piece of legislation would apply to all Victorian pools, regardless of when they were built.

The advantages of retrospective legislation include:

- Improved safety as all pools would require a four sided barrier (isolation fence), with no direct access from the house or any other building to the pool or spa.
- Reduced confusion for home owners, building surveyors/pool inspectors
- Reduced 'red tape' in trying to determine the date of construction of a pool in particular for new owners, building surveyors/pool inspectors.

The disadvantages of retrospective legislation include:

- Significant financial implications for home pool owners with pools built before 1991 to update the safety barrier in line with current legislation
- Implications in those instances where it may not be possible to update the safety barrier due to the location of the pool.

Conduct a review of design and installation issues, and robustness of pool fencing materials, to ensure there are no faults with the products being used to isolate home pools.

Currently, all products used in the construction and design of pool safety barriers must meet the applicable Australian Standard, however it is unknown if there are certain design faults with elements of safety barriers that cause them to become non-compliant over time, or if there are aspects of the installation that could be improved. It is therefore recommended that a review of the design, robustness and installation of materials used in pool safety barriers be reviewed to ensure there are no fundamental issues in this area.

References

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Jolly, P. (2009). *Requirements for Advertising and Sale of Above-Ground Pools*. [letter] (Personal Communication, 18 November 2009).

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Victorian Swimming Pool and Spa Safety Working Party. (2004). *Making Victoria Water Safe: A Report on Toddler Drownings in Backyard Pools and Spas*. Play it Safe by the Water, Victoria.

Victorian Building Authority (2016). *VBA Pool and Spa Research 2014/15*. Victorian Building Authority, Melbourne, Victoria.

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Appendix I. State Summary Comparison

State / Territory	Number of Home Pools (Number '000)	Pool Register	Legislation	Routine Inspections	Inspector Qualification
Victoria	Total: 146.4 In-ground: 118.1 Above-ground: 28.3	No	Building Code of Australia 2010	No	Registered Building Surveyor Registered Building Inspector
Queensland	Total: 312.3 In-ground: 274.9 Above-ground: 37.4	Yes - all pools by 2011.	Swimming Pool Safety Guidelines Queensland Development Code Mandatory Part 3.4.	Post build for new pools since 2009. All pools following a complaint or when selling, buying or leasing or after an immersion incident.	List of inspectors on QBCC website Need 31005QLD qual or Building Certifier
New South Wales	Total: 337.6 In-ground: 275.3 Above-ground: 62.4	Yes - all pools by 2013.	Swimming Pools Act 1992 & Swimming Pools Regulation 2008	All pools following a complaint or when selling, buying or leasing from 2016.	Accredited certification A1, A2, A3 and E1 (Accredited Certifier) under the Building Professional Act 2005
Western Australia	Total: 129.3 In-ground: 112.0 Above-ground: 17.4	Yes - for over 20 years.	Building Act 2004, Building (General) Regulation 2008	Mandatory every 4 years.	Training from RLSS WA or Inspecting Council
South Australia	Total: 57.1 In-ground: 46.0 Above-ground: 11.2	Yes - new pools from 2014.	The Development (Assessment Procedures) Amendment Act 2007 – 71AA The development (Swimming Pool Safety) Variation Regulations 2008 – 76D	Post build for new pools since 2014.	Private certifier under R91(A1/A) or Building Surveyor or 8 years postgraduate experience in set field
Northern Territory	Total: 21.4	Yes - details not known.	Building Code of Australia 2010	Post build for new pools since. All pools following a sale.	Not known

Tasmania and ACT have been excluded from Table 2 as they do not currently have any inspection or audit systems, and no specific home pool legislation however follows AS1926.1.

1. ABS, 2010. Environmental Issues: Water Use and Conservation 4602.0, Table 26