

4 October 2018

Hon Aaron Stonehouse MLC
Chairman
Select Committee on Personal Choice and Community Safety
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Stonehouse

RE: SUBMISSION TO SELECT COMMITTEE ON PERSONAL CHOICE AND COMMUNITY SAFETY

This submission will focus on Term of Reference # 2 with a specific focus on private (home) swimming pools. In this context, the Western Australian Parliament has enacted provisions in the Building Act 2011 and Building Regulations 2012 that establish requirements for both individuals and local governments, including that:

1. each owner/occupier of premises on which there is a private swimming pool/spa must ensure that an effective safety barrier is installed; and
2. local governments must arrange for an authorised person to inspect the swimming pool/spa barrier at intervals of no more than four years.

This submission will introduce the Royal Life Saving Society, our purpose and expertise, provide an overall picture of the community safety impact of private swimming pools and information in relation to the more complex personal choice issues.

ROYAL LIFE SAVING SOCIETY

Preventing drowning has been the foundation of the Royal Life Saving Society WA since it was established in 1909. In a modern context our purpose is two-fold; firstly, to empower our community to be safe when in or on the water and secondly to lead efforts to support victims and their families. The results we seek are:

- To eliminate toddler drowning.
- All Western Australians possess water safety, swimming, survival and rescue skills.
- Trained lifesavers and first responders in every community.
- Safer pools, rivers, lakes and dams.
- Support for victims and families impacted by a drowning incident.
- Increased public awareness and community support.

Royal Life Saving works in a range of capacities from leadership, research & advocacy, community awareness through to service delivery. We have a long history of making a positive contribution toward related community/government agendas such as increasing physical activity, health and community education.



COMMUNITY SAFETY IMPACT

Drowning is the leading cause of preventable death in children under the age of five in Australia. Over the last 10 years (2002/03 to 2017/18) there has been an average of 28 fatal drownings in this age group each year across the country.ⁱ

In 2017, the Ombudsman WA undertook an investigation into ways to reduce death of children by drowningⁱⁱ. This report will be particularly useful to the Select Committee as it is substantial, locally relevant and current. It includes an extensive literature review and identifies that, over the six-year investigation period, there was in Western Australia:

- 34 drowning deaths of children,
- 258 children admitted to a hospital following a non-fatal drowning incident and
- 2,310 children who attended an emergency department at a hospital following a non-fatal drowning incident.

The loss of a child to drowning is devastating to their family and has significant costs for the broader community and health care system. The Department of Health report into the Incidence and costs of injury in Western Australia calculated the annual cost of drowning in 2012 at \$163 million.ⁱⁱⁱ

This report also highlighted that the mean costs of injury events involving drowning were considerably higher than any other injury event because a high proportion of drownings are fatal. The report also found the average cost of each drowning event involving a child is \$511,483 and in 2012 totalled \$31 million.

Efficacy of Mandatory Barriers

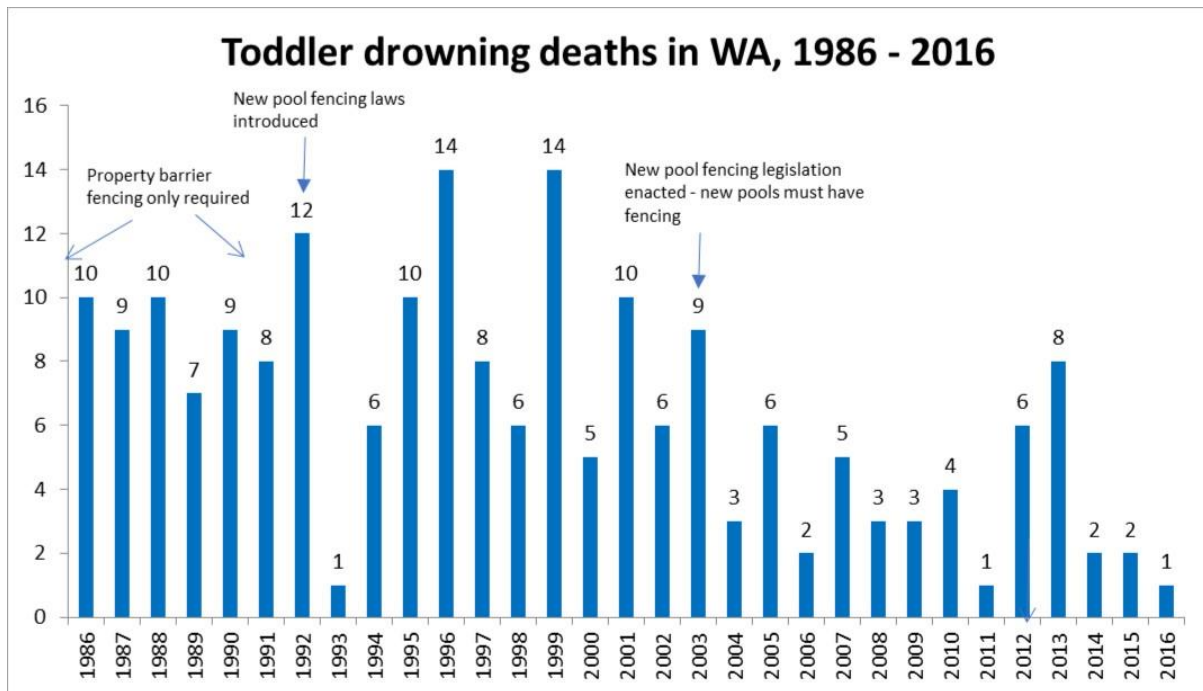
The Royal Life Saving Society has been, and remains, a staunch advocate for mandatory home pool/spa fencing because the majority of drowning incidents involving children aged 0-4 years occur in private swimming pools/spas.

Mandatory pool/spa barrier legislation was introduced in July 1992 that required any door or window that opened directly into a pool or spa area to be self-closing. This legislation was further strengthened in November 2001, with the new regulations requiring that all pools and spas to include a suitable barrier that separates it from any building on the property.

In the five years prior to the implementation of the 2001 legislation (1997 – 2001), on average 8.2 toddlers drowned each year in WA, with 65.9% of these occurring in home pools. In the five years immediately following the introduction of the legislation (2002 – 2006), there was an average of 5.8 deaths per year, with 51.7% of these occurring in home pools. This represents a 29.3% decrease in toddler drowning deaths and 14.2% decrease in the proportion of deaths occurring in home swimming pools following the introduction of this legislation.

More recently, between 2013 and 2017, there were 3.2 drowning deaths per year with only 1.8 of these occurring in home swimming pools. Considering the state's overall population increase during this period, this represents a significant decline in the drowning rate in this age group.





Efficacy of Barrier Inspections

In the majority of home pool drowning deaths occurring in a home swimming pool the child was able to gain access to the pool due to a fault in the barrier including the gate being propped open or a failure of the self-closing/self-latching mechanism of the gate or access door.

While all Australian states and territories have some legislated pool barrier requirements and uniform standards apply for the construction and installation of new barriers, WA is the only state to have a mandatory regular inspection program in place.

Mandatory inspections reduce the number of pool barriers that are not meeting the requirements over time by regularly reminding pool owners of their obligations, providing advice to rectify any faults and enforcement by local government if necessary. Research conducted by Royal Life Saving^{iv} that reviewed 28,143 pool barriers inspections found 92.3% of barriers were ultimately deemed compliant with the regulations at final inspection. This is significantly higher than any other Australian state and/or territory and increases the likelihood that the barriers will perform as designed and effectively restrict access to the pool area by young children.

The impact of WA's pool fencing laws and inspection program is apparent when compared with other Australian states. The Swimming Pool Drowning Index (SPDI) calculates the incidence of fatal pool drowning in an area as a proportion of the number of people estimated to have access to a swimming pool. It adjusts for local differences in the penetration of private swimming pools on the expected rate of drowning. Over the last three financial years, WA has achieved a SPDI of 4.78 per 10 million persons with pool access. In Queensland and NSW, states with similar fencing standards but no mandatory ongoing inspections, the figures for the same period are 5.97 and 7.18 respectively^v. This further demonstrates the effectiveness of legislation in reducing the impact of drowning within the WA community.



PERSONAL CHOICE IMPACT

Royal Life Saving is deeply concerned and against removing any of the existing legislation or allowing an individual private pool owner to opt-out of the legislated requirements. In our expert view and based on the lived experience, reverting to arrangements like those that existed before 1992 will result in more toddlers drowning, being hospitalised, living with life-long disabilities and more devastated families.

Unique challenges of the home

In all toddler drowning incidents there is a failure of adult supervision. Sometimes this was due to a momentary distraction and in other cases a prolonged absence. For this reason, adult supervision is frequently held up as the solution to toddler drowning and Royal Life Saving has been promoting its importance by delivering the 'Keep Watch' awareness and behavioural change program since 1996.

While constant supervision is reasonable to expect in settings like the ocean, rivers and lakes, constant supervision in the home is far more complex and should not be considered a realistic replacement for a private pool barrier. The inevitable encroachment of household duties means the home pool/spa must to be isolated to prevent access when not in use.

Simplistic arguments such as 'we don't fence the Swan River' fail to identify the unique challenges of the home. It is this difference and the fact that approximately 90% of toddler drowning deaths occur at locations in and around the home (and not rivers/lakes) that justify the additional safety measures.

Private Pool Ownership

WA has one of the highest rates of home pool ownership in the country. There are an estimated 170,000 home swimming pools in WA, with approximately 6,000 to 8,000 new swimming pools constructed each year. These statistics do not suggest pool fencing legislation hinders, restricts or impacts pool users' wellbeing or enjoyment. To the contrary, it contributes to the view that pools are a safe and enjoyable addition to the family home.

Capacity to choose

Fundamentally, barrier legislation is in place to protect young children who are unable to exercise personal choice in relation to private pools. As they gain mobility and explore their surroundings they have little concept of the risk or danger of drowning nor do they possess the swimming skills to cope with being in the water.

Some argue those who do not have young children residing in their home should be able to make the choice whether to install pool fencing based on their individual assessment of risk. However, we know that between 2002 and 2017, one-quarter of toddler drowning in pools or spas occurred at the home of a relative or neighbour, highlighting the need for a consistent approach towards home pool safety.

A simple 'community norm' or more red-tape

The current mandatory requirements are well understood and generally accepted by the WA community. The community understands that when installing a pool/spa a safety barrier is also required, for everyone. Neighbours, people on the same street, the wider community. Over time, it has become a 'community norm'. This simplicity delivers a range of benefits and efficiencies that should not be ignored in the analysis.



Any exemptions that allow pool/spa owners, at a point in time, to remove the barrier will create significant complexity to the system and additional costs. In the view of Royal Life Saving far beyond any perceived benefit. We also believe that any changes will result in confusion amongst not only home pool owners, but Local Government Authorities responsible for conducting inspections and the inspectors themselves. There will also be difficulties encountered when communicating information about who is required to have a pool barrier and in what circumstances is it acceptable to not have a barrier in place.

Presuming Informed Choice

Royal Life Saving believes that exercising personal choice when it comes to matters of community safety requires a full understanding of the risks and responsibilities. Expecting people that are unaware of the risks to choose will logically expose them to unforeseen risks. This issue is particularly relevant when considering the number of migrants, from diverse cultural backgrounds without private pools, settling in WA, buying or renting a property with a pool.

This was highlighted in the recent Ombudsman WA report which looked at ‘vulnerable communities’ including CaLD, Aboriginal and children known to the Department for Child Protection. Royal Life Saving believes these factors should be considered by the Select Committee when assessing the reasonableness of presuming ‘informed choice’. The Ombudsman investigation found children from socioeconomically disadvantaged suburbs were more at-risk^{vi}:

- Children who died by drowning and resided in decile 1 (highest level of socioeconomic disadvantage) suburbs were overrepresented by a factor of 10.7
- Children who were admitted to a hospital following a non-fatal drowning incident and resided in decile 1 suburbs were overrepresented by a factor of 6.4
- Children who attended an emergency department at a hospital following a non-fatal drowning incident and resided in decile 1 suburbs were overrepresented by a factor of 3.6.

Royal Life Saving believes the cost of raising knowledge levels on this matter and providing adequate consumer support to inform choice for at-risk groups would be far greater than a simple, consistent standard.

Pool barrier and inspection costs

Pool fencing is a relatively small cost in the context of installing and maintaining a home pool. Royal Life Saving estimates that installing a below-ground pool typically costs between \$20,000 and \$100,000. A barrier may account for only a few thousand dollars of this total. WA’s current legislation has been in place for nearly 17 years and prospective pool owners are aware of the need to factor barrier costs into their budgets when considering a home pool. The fencing industry has responded to the legislative requirements by increasing the range of fencing options available which ensure that pool fences can be aesthetically pleasing and complement the surrounding yard.

A well-maintained pool fence that is regularly checked has very few ongoing costs associated with it. The cost for routine pool fencing inspections, charged via local government rates, is capped at \$57.45 annually and a number of WA local government authorities charge significantly less than this price. This shows that there is no substantial financial burden placed on home pool owners under the current legislation.



RECOMMENDATIONS TO THE SELECT COMMITTEE

Royal Life Saving recommends the Select Committee:

1. recognise the value and appropriateness of current legislation,
2. acknowledge the substantive work undertaken by the WA Ombudsman, and
3. advocate in its findings that the WA Government should adequately implement and resource the recommendations outlined in the WA Ombudsman Report.

Royal Life Saving has a strategic goal to eliminate toddler drowning, to do what is necessary to protect our most vulnerable and we strongly believe this view is supported by the wider community. The approach of successive WA governments has saved many young lives, and while progress has been made, more can and should be done.

Yours sincerely

Peter Leaversuch
Chief Executive Officer

ⁱ Royal Life Saving Society – Australia (2018). Royal Life Saving National Drowning Report 2018. Sydney, Australia.

ⁱⁱ Ombudsman Western Australia (2017). Investigation into ways to prevent or reduce deaths of children by drowning.

ⁱⁱⁱ Table 5.10: Incidence and costs of injury in Western Australia 2012. Report prepared for the Chronic Disease Prevention Directorate Department of Health WA.

^{iv} Royal Life Saving Society Western Australia (2017). The Home Swimming Pools Barrier Report 2011-2016.

^v Royal Life Saving Society – Australia (2018). Royal Life Saving National Drowning Report 2018. Sydney, Australia.

^{vi} Section 3.2.7; Ombudsman Western Australia (2017). Investigation into ways to prevent or reduce deaths of children by drowning.

