

22 May 2018



The Hon Matthew Kean MP
Minister for Innovation and Better Regulation

Email: office@kean.minister.nsw.gov.au
policy@finance.nsw.gov.au

RE: RED TAP SUBMISSION

The Swimming Pool & Spa Association of Australia (SPASA)

SPASA represents hundreds of Australian businesses within the swimming pool and spa industry.

Members of SPASA include pool builders, manufacturers, suppliers, retailers, technical servicemen, subcontractors, installers, consultants and other allied trades, all of whom set themselves apart from the rest of the industry by setting standards of skill, workmanship and ethical business behaviour in the best interests of pool and spa owners.

SPASA is also a Registered Training Organisation (RTO) that provides training and assessment to the swimming pool and spa industry. Our courses are designed in consultation with key industry stakeholders and our qualifications and accreditations are highly valued by government, employers and the wider community.

The Swimming Pool and Spa Industry is diverse and includes but is not limited to the following sectors:

Manufacturers of Equipment & Chemicals	Suppliers of Equipment & Chemicals
Pool Builders	Pool and Spa Service Technicians
Pool Shops	Consultants
Online Retailers	Portable Spa Retailers
Prefabricated Pool Manufacturers & Retailers	Tiling/Paving Suppliers & Retailers
Pool and Spa Heating Manufacturers & Retailers	Pool Cover Manufacturers & Retailers
Ancillary Retailers	Other Sub Trades

The swimming pool and spa industry includes mainly small businesses and is particularly vulnerable to the negative impact of additional red tape and government regulation.

The average swimming pool and spa small business spends significant hours each week attending to paperwork and compliance obligations arising from regulatory requirements including business, income and payroll tax compliance, training regulations that apply to apprentice employees, workplace health and safety management, occupational licensing and state-based home building laws and requirements.

Regulations impose cost, barriers and administrative burdens on firms that distract them from their principal objective of growing and running a profitable business.

The overwhelming burden of excessive red tape and regulation is often cited by SPASA members as the number one reason they leave the industry and deters new entrants.

In response to your invitation found in APPENDIX A, SPASA has consulted with members and provides the following items for your consideration.

RED TAPE

There are many Acts and Regulations that present little or no compliance difficulties. Others, however carry a significant financial and administrative burden and result in bureaucracy and lost opportunities.

Small businesses generally incur proportionately higher compliance costs when compared to larger and better resourced businesses often spending approximately 5-10 hours each week just on government compliance with a red tape price tag of approximately \$10,000 per year.

While the burden of each individual regulation may be small and justified, the combined or cumulative burden can have a major impact on the development and growth of small business.

It is disturbing to note that even after significant consultation that there is an apparent inability of government and its agencies to understand business efficiencies and the needs of swimming pool and spa small businesses.

SPASA submits that early two-way consultation with small businesses in the development of regulation is critical to ensuring regulation is appropriately targeted and understood by those affected.

The following represents areas of concern:

HOME WARRANTY COMPENSATION FUND

Flexibility:

Pool Builder eligibility is a key area of frustration with the current scheme. Whether a pool builder can obtain eligibility can make or destroy their business.

Whilst there have been recent reforms, there are still issues regarding eligibility requirements.

Underwriting Guidelines:

Information and material in the Underwriting Guidelines have been developed to provide builders, insurance intermediaries and professional advisors with a key reference source for underwriting insurance by the Home Building Compensation Fund (HBCF).

Despite the Underwriting Guidelines being in place, there is a disconnect in the way brokers and intermediaries follow, use and interpret key aspects of eligibility covered in the guide.

A lack of understanding, education and/or non-compliance with the Underwriting Guidelines places pool builders in a position where their ability to trade is significantly and negatively impacted by poor decisions being imposed on them.

Frequent financial reviews:

Many small/medium pool builders are categorised as large builders which requires them to submit quarterly financials. Costs amount to approx. \$4k per quarter or \$16k per annum.

Administrative Costs:

The internal administrative and resource costs faced by small and medium pool builders in preparing for HBCF compliance is sizeable especially when these costs are in addition to the cost of external accountants.

Industry Cyclical Patterns:

Despite repeated attempts to highlight industry patterns, there seems to be a lack of understanding on how the swimming pool and spa industry actually operates.

Broker Education:	Broker eligibility, procedural education and understanding is generally poor and results in pool builders being provided with harmful financial parameters. Eg. Unnecessary deeds or capital injections or not being able to take on new work due to eligibility limit.
Intermediaries:	Intermediaries overreaching for information and changing the goal posts from one review to the next. Access to the Intermediary presents a significant problem when the broker is unable or unwilling to satisfy the pool builders questions.
Qualified Personnel:	Pool Builders who submit accounts for review use qualified accountants. Disappointingly, many of the reviewers are not suitably qualified to review and interpret accounts.

New Entrants:

The swimming pool and spa industry desperately needs young builders entering the market to offset and replace our aging workforce.

A young person having just completed his education and being awarded a Swimming Pool Builders License is unable to obtain HBCF eligibility without providing financial security. Without work, the builder is unable to earn an income and therefore provide the necessary financial security.

Whilst, there are appropriate nationally accredited qualifications for new entrants wishing to become swimming pool and spa builders, it is proving a difficult sell if the very people that are being up-skilled and qualified are unable to obtain sufficient work as a consequence of difficulties in obtaining HBCF eligibility.

There is no doubt that the positives and benefits of new entrants entering the industry are evaporating and there are broad concerns that the current inflexible HBCF scheme is promoting non-compliances.

Sleeper Projects & Practical Completion:

The current eligibility cap lacks adequate flexibility to accommodate 'timing' issues associated with project delivery. In some cases;

- a) Some swimming pools can take up to two years to complete on a Greenfield site. This is primarily due to the homeowner taking advantage of clear access to the site so that the swimming pool shell can be constructed prior to the commencement of the residential home. The pool builder returns once the home is complete to install the pool finishes and the installation of equipment.
- b) the planning system may often delay a project's commencement by months or even years from the agreed contract date
- c) a client's changing needs which may substantially extend a project's life.

In such circumstances, the pool builder's ability to provide practical completion is delayed and this scenario significantly disadvantages the builder's HBCF's open job limit.

Accordingly, SPASA submits that a Builders ability to take on new work should not be disadvantaged by projects that are on hold for legitimate practical reasons.

Swimming Pool Equipment:

Swimming pool and spa equipment can account for 10-15% of the average cost of a basic pool with the price of equipment of more elaborate construction projects exceeding 25%.

The Swimming Pool Builder is required to take insurance on the entire project (*including pool and spa equipment*) despite the equipment already being covered by the manufacturers own statutory warranties.

SPASA submits that the swimming pool and spa equipment component should be removed from HBCF requirements as such equipment is already covered under a multitude of other consumer laws and processes.

Non-Payment:

Whilst HBCF is part of a comprehensive consumer protection regime for homeowners undertaking residential building projects in NSW, a notable major cause of builder insolvency is non-payment by consumers for works carried out. The means to recover residential consumer debt is expensive and time consuming.

NCAT orders against a builder who does not perform can lead to license suspension and HBCF restrictions whilst NCAT orders against consumers who do not perform requires the builder to invest in legal actions that protract the matter and can cost as much or more as the order they are pursuing.

SPASA submits that the Security of Payments Act or some other similar mechanism needs to be geared to include residential building works contracted directly with the homeowner to protect the builder.

7(2)(f1) of the Home Building Act:

The the new requirement under section 7(2)(f1) of the *Home Building Act 1989* that will oblige contractors to include in their contracts with home owners the cost of cover under the home building compensation scheme (if the contract is for work requiring that cover).

In this regard, it is important to note:

- Pool builders more frequently face the regulatory cost of complying with the requirement because they typically enter into contracts more frequently than general builders constructing houses or multi-unit projects; eg:
 - Small Pool Builders: 25-50
 - Medium Pool Builders: 50-100
 - Large Pool Builders: 100+
 - with some Very Large Pool Builders completing over 300 projects per annum.
- In the pool building industry, the type of pool, project specifications and costs of a contract are often negotiated and settled with a consumer very quickly (sometimes at one meeting) as opposed to the detailed project specifications as may be more commonly the case for general builders that do much larger cost / lower volume projects. The cost of the project is not known until they meet with the customer to decide on things such as the following:
 - Type of Pool (dimensions, volume and design)
 - Types of finishes (tiling, coping etc)
 - Equipment (hydraulics, sanitation, heating, lighting etc)
 - Excavation machines required for that specific site (changes based on access and fill)
 - Cartage of excavated material (type of fill etc)

Hence, Pool builders do not have the opportunity or ability to understand the basis of the contract or to settle the contract until they actual sit down with the customer, negotiate and then sign. By way of example, they may sign up four out of every ten customers they visit daily. In some instances, Pool builders can visit customers within hours of receiving a sales call as they are out and about. It is just not feasible or practicable for HBCF quotes to be obtained prior to and at every visit.

- [Home Building Act 1989, Part 2, Division 1, Section](#) advises: A contract MUST be in writing and be dated and signed by or on behalf of each of the parties to it and MUST contain requirements listed (a) – (j).

7(2)(e) infers that you can sign a contract even if the contract price is not known whilst 7(2)(f) has the requirement for the cost of the insurance to be listed within the contract (which includes the broker fee).

This does not work for the swimming pool and spa industry.

Additional SPASA Information on the HBCF can be viewed [HERE](#).

SWIMMING POOL LEGISLATION

Swimming Pool regulations and standards have been reviewed and amended numerous times in NSW over the past twenty years, however, there remain many areas that continue to be unnecessarily complex, confusing, broad in nature and open to interpretation.

The Swimming Pools Act 1992 has been amended eight times over the period from 1992 to the current period. There were also three versions of the Regulations (1992, 1998 and 2008).

Each state has different legislation, inspections, adoption of standards and licensing requirements in relation to pool safety barriers and yet children zero to four years old present the same supervision and pool safety risk whether you live in NSW or any other part of Australia.

In this regard, SPASA would like to see every government across Australia come together and commit to harmonising pool safety legislation and adopt the same Australian Standard un-amended and *without state-based variations*.

Issues with current swimming pool and spa regulatory approach

Effective industry consultation and engagement is central to the development of “good governance and policy”. To enable “good governance and policy” it is encumbered on government and regulators to inform industry, seek input, listen and stimulate debate.

When done right this process helps achieve effective and responsive decision-making and assists government to meet policy, planning, leadership and advocacy objectives and outcomes.

In the last four (4) years there have been numerous reviews undertaken which has directly affected the swimming pool and spa industry and the safety of users of pools.

With so many reviews in such a short amount of time it is reasonable to ask whether the consultation processes have been “*Effective*”, “*Transparent*”, “*Proportional*” and “*Inclusive*” or had “*Accountability*” associated with them?

The key issues with the current NSW regulatory approach are as follows:

- Complex pool barrier standard requirements vary according to the date of construction of the pools as well as having associated issues such as:
 - Unresolved issues with the interpretation of the current standard, AS 1926-2012
 - Lack of documentation about safety requirements for pool owners and the community
 - Absence of requirements for pool barrier installers to know the pool barrier standard
 - Lack of a process for certifying that pool barrier material is fit for purpose.
- Legislative exemptions from pool safety requirements that contribute to child drownings and an ineffective process that allows case by case consideration of exemptions by councils due to the absence of guidelines and a structured approach
- Significant risks posed by portable pools with a low level of compliance with registration and fencing and lack of clarity about the definition of a spa
- A state swimming pool register that:
 - is difficult to operate
 - does not capture all the necessary information
 - has very limited reporting capability
 - cannot be used for communicating with pool owners.
- Need for greater clarity in role, responsibility, accountability and support for pool certifiers and revised training arrangements, including:
 - Lack of documentation about the role and responsibilities of pool certifiers and pool inspectors, including what level of documentation is required for pool inspections
 - No requirement for Continuing Professional Development for pool certifiers

- No requirement for council pool inspectors or A1 to A3 building certifiers doing pool certification work to be accredited in pool safety requirements
 - Violation of the principle of competitive neutrality in fee setting between councils and private certifiers, with private certifiers setting market-based fees but councils subject to a regulated fee that is not cost reflective
 - Restrictive entry requirements for those wishing to be trained and accredited in pool certification, thus limiting the numbers able to offer the service
 - Limited number of training organisations offering the pool certifier course, limiting access to training and competition
 - Absence of an audit program to assess the performance of certifiers and improve accountability
 - Limited requirements for private certifiers to follow up and seek to resolve non-compliance
 - Lack of support arrangements for pool certifiers including practice guide and help line
- Lack of adequate documentation provided by both pool certifiers and council pool inspectors about the reasons for non-compliance and identification of options to address the non-compliance.
 - Lack of an affordable and timely appeals mechanism for pool owners wishing to contest a pool non-compliance assessment. Currently, the only avenue of appeal is to the Land and Environment Court
 - Insufficient analysis of current information about child drownings, fatal and non-fatal. This includes the need for comprehensive coverage of non-fatal drownings and follow up by councils, as well as annual reporting on pool safety performance by the swimming pool regulator
 - Governance arrangements for swimming pool regulation does not align with building regulation in all jurisdictions, necessitating a legislative and regulation rewrite and for stakeholders to become more involved in development of regulations and pool safety

NSW Variations - Building Code of Australia

While NSW does call up the BCA as its basis for setting the standard for swimming pools and hence the Australian Standard, there are explicit areas where NSW has taken a different position from other jurisdictions.

Examples include:

- NSW does not allow an out of ground pool wall to form part of a pool barrier which is allowed under the Australian Standard. This reflects in the Swimming Pools Act 1992 a clear distinction between the pool, the barrier and the external land and requires these to be separate and distinct. This is effected through a variation in the BCA
- NSW allows a spa pool to have a lockable lid, subject to certain requirements, whereas the national standard requires pool fencing. This is effected through a variation in the BCA
- NSW also does not allow a lockable door or window to form part of a barrier, whereas the standard does. This is effected through provisions in the Act.

This places NSW at odds with other jurisdictions in complying with a nationally consistent Standard.

SPASA submits that NSW follow other jurisdictions regarding following standards without introducing state-based variations.

ACCREDITED E1 - PRIVATE POOL CERTIFIERS

Since February 2012, SPASA has frequently written to government at great length regarding significant concerns with the pool barrier inspection program. Whilst we acknowledge that Government was and continues to genuinely look to improve swimming pool and spa safety, industry remain frustrated at the lack of understanding displayed for such an important reform.

SPASA believes that only through our combined efforts can our objectives around pool safety be realised through investing in appropriate consultation, planning, policy, education and support.

SPASA was forced to take a leadership position and invested a great deal in time and resources in engaging with Accredited Pool Certifiers in 2016 via surveys and meetings so that we can obtain real data from the very people charged with inspecting and assessing swimming pool and spa barriers in NSW.

A summary of this 2016 data revealed:

- 51% of certifiers are not satisfied with the quality of communication from regulators
- 66% of certifiers have been provided with different interpretations of standards, regulations and the Act when speaking to various regulators
- 68% of certifiers had inspected pools and found that a previous council inspector or certifier had referred to the wrong Standard, Regulation and Act or incorrectly interpreted or applied clauses
- 35% of Respondents were accredited as E1 Certifiers under Mutual Recognition
- 81% of certifiers believe the E1 Course should be recognised by the national training regulator - Australian Skills Quality Authority (ASQA)
- 63% of certifiers did not believe they were receiving sufficient regulator guidance
- 70% of certifiers felt that BPB Accreditation Fees did not reflect value for the service and guidance they received
- 85% of certifiers supported the establishment of an independent governing body such as a "Pool Safety Council"
- 94% of certifiers want access to a Pool Certifier Help Line (Pool Safety Council) as well as a Guide covering Standards, Regulations and the Act
- 96% of certifiers felt that Council Inspectors should complete the E1 Course before they are able to inspect pools and spas
- 94% of certifiers wish to see greater functionality on the Swimming Pool Register website

Additional SPASA Information on the E1 Certification Survey can be viewed [HERE](#).

Certifier \$50 Lodgement Fee - Written Notice of Non -Compliance:

SPASA understands it is still early days since the administrative function of swimming pools transitioned on the 1st January from the Office of Local Government to NSW Fair Trading and acknowledge the Minister's new portfolio has yet to outline an agenda or plan.

SPASA would like clarity in relation to the recent practice of Councils charging Certifiers \$50 for Written Notices of Non-Compliance.

The matter has already been raised directly with the Office of Local Government and the Building Professionals Board.

The matter remains unresolved.

ISSUE - Written Notice of Non -Compliance - \$50 Lodgement Fee

- 1) Industry has received communication from a NSW Council that an administration fee of \$50 is now payable, per report, by a certifier where they forward a Written Notice of Non-Compliance to the Council, ie section 22E of the Pool Act, report with the Council.

Regulatory Impact

- 2) The impact of this fee model is:
 - a. Transfer of a cost of non-compliance from owner to service provider, ie certifier
 - b. Weakening of incentive to remediate non-compliance by owner due to transfer of a non-compliance cost;
 - c. Certifiers not servicing an area which is likely to have the effect of causing a substantial lessening of competition in the council's jurisdiction;
 - d. Increase resource pressure on Council to conduct inspections;
 - e. Slowing of property sales/leasing due to reduced access to certifiers;
 - f. Certifier fees increase either across the board or for a specific council jurisdiction;
 - g. Fragmented fee structure across NSW, as fees may vary from council to council;
 - h. Certifiers lodge notice of non-compliance and refuse to pay the fee;
 - i. Increase risk to Council/NSW Government for failure to administer receipt of non-compliance report without payment of administration fee;

Competitive Neutrality

The "NSW Government Policy Statement on the Application of Competitive Neutrality" states that:

"The application of competitive neutrality principles is aimed at eliminating any net competitive advantages accruing to government businesses as a result of their public-sector ownership. Such action removes potential market distortions and promotes an efficient allocation of resources between public and private businesses."

- 3) It could be easily argued that local government is using their legislative or fiscal powers to advantage themselves over the private sector.

Duty to lodge Written Notice of Non -Compliance

- 4) Where an accredited certifier conducts an inspection under section 22C of the *Swimming Pools Act 1992 (Pool Act)*, the accredited certifier must provide a written notice to the owner of a swimming pool if the accredited certifier has inspected the swimming pool and is not satisfied that the requirements for the issue of a certificate of compliance have been met, section 22E(2) of the Pool Act.
- 5) An accredited certifier who issues a notice under section 22C must forward a copy of the notice to the local authority, Section 22E(4) of the Pool Act:
 - a. immediately, if the accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety, or
 - b. within 5 days after the end of a 6 week period from the date of inspection.
- 6) An accredited certifier is not required to forward a copy of any notice to a local authority in respect of a swimming pool if, at the time at which the notice is due to be sent, the swimming pool has a valid certificate of compliance, Section 22E(5) of the Pool Act.

- 7) It need not be the same certifier that issues the certificate of compliance as the one that issued the certificate of non-compliance.
- 8) Neither the Pools Act or the *Swimming Pools Regulation 2008 (Pool Regulation)* prescribe lodgement fees for forwarding a copy of the notice to the Local Authority.
- 9) Local Authorities must provide a written notice to the owner of premises on which a swimming pool is situated if the local authority has inspected the swimming pool and is not satisfied that the requirements for the issue of a certificate of compliance have been met, clause 18B(2) of the Pool Regulation.

Council Fees

- 10) Part 10 of the Local Government Act 1993 (LGA) sets out the fees that may be charged for a Local Authority's business and non-business activities; the methodologies for determination the fee and the notification period to the public prior to implementation of a new or modification to a fee.
- 11) Part 5 of the Local Government (General) Regulation 2005 deals with Rates and Charges but appears not to address those fees under section Part 10 of the LGA.

Service Fee

- 12) A council may charge and recover an approved fee for any service it provides, other than those under section 496 and 501 of the LGA, section 608 of the LGA.
- 13) When looking at the fees permitted under Part 10 of the LGA, it appears that they are levied against the rate payer and not a service provider to a council's jurisdiction. For example, waste management fees are levied against home/business within a council's jurisdiction and not on the users of the waste bins.
- 14) Questions arise:
 - a. what is the service?
 - b. to whom is the service provided?
 - c. Why charge the certifier and not the property owner?

E1 Certifier Training:

E1 Certification is ultimately about the "Safety" of young children around swimming pools and spas.

For that reason, the educational function specific to the E1 Course should not be handled, assessed or managed by the Building Professionals Board (BPB).

The E1 Course must be overhauled into an accredited course and overseen by an appropriate authority such as the Australian Skills Quality Authority (ASQA) as is the case with the Queensland 31005QLD Accredited Swimming Pool Safety Inspections Course to become a Pool Safety Inspector.

A career as an E1 Certifier is currently limited and only attractive to a small group of individuals. Despite the restricted E1 Accreditation criterion, there are many more experienced individuals that should be considered as a welcome and necessary addition to the E1 pool of Accredited Certifiers such as *Swimming Pool and Spa Technicians and other such industry relevant persons*.

Council & Certifier Engagement:

For the Swimming Pool Barrier Compliance regime to be successfully implemented and accepted, it should be an essential requirement for Council's to have an engagement model that advocates compliance and not one combatant in nature.

SPASA is aware that some Councils issue a 'Direction to Comply' prior to or at the same time a pool owner gets advised of non-compliance. In some instances, inspection reports are not provided or are so opaque that even independent certifiers cannot interpret the points of non-compliance. In the absence of appropriate reporting and references to correct versions and clauses within standards and legislation, compliance can become a game of chance and trial and error.

SPASA does not consider the contemporary engagement model to promulgate the desired compliant behaviour by pool owners, ie maintain a compliant swimming pool barrier.

Key Elements should include:

- Empower pool owners through adequate and appropriate education / communication / disclosure prior to enforcement;
- Enforcement tools, such as 'Direction to Comply', used as a position of last resort;
- Immediate implementation of enforcement action only where the swimming pool provides a significant risk to public safety;
- Access to the appropriate Australian Standard(s)

Communication and Education on Pool Safety:

SPASA considers it critical that there is an active and committed program of communication and education on pool safety and child supervision which includes the engagement of key stakeholders in the consultation, design and delivery of pool safety initiatives.

Key elements should include: spacing

- The establishment of a Pool Safety Council, comprising of relevant stakeholders with the function of advising the Government on pool safety policy and practice
- Meaningful and active engagement of the swimming pool and spa industry and other respected organisations
- A dynamic education program on pool safety and active child supervision
- A comprehensive Pool and Spa Legislation, Regulation and Standards Guideline

Training and accountability of pool barrier installers:

Under the current licensing rules of the Home Building Services Act, persons installing fences do not need a license if the value of the work is \$5000 or less. Previously this was \$1000.

The increase in the value threshold means that a substantial number of persons installing pool barriers are not licensed and there is no regulatory mechanism to ensure that they install pool barriers in line with the standard or have the requisite training and skills.

At the same time, the absence of licensing for pool barrier installers doing work under \$5000 does not mean that they are not regulated. Contractors in NSW who perform residential building work under \$5000 in value and are not regulated under the Home Building Act are regulated under the Australian Consumer Law (ACL) and have statutory obligations to consumers.

From discussions with E1 Certifiers and members it would appear that a significant number of persons installing pool barriers are not aware of the regulatory requirements and standards.

This reflects in pool barriers being installed for new pools which are non-compliant and need to be corrected before they can be certified.

While the use of ACL will provide a means of redress for consumers who are aware of their rights after the event, it does not necessarily address what appears to be the underlying problem of lack of contractor knowledge or awareness of the barrier standards.

The most effective way to achieve that would be to require pool barrier builders/installers to be licensed and impose as a condition of that license that having suitable knowledge and training in the pool barrier standards is required.

DEREGULATION OF FENCING

Under the previous Home Building Regulation 2004, residential building work involving fencing was a regulated activity that requires a licence or certificate.

Lifting compliance with pool and spa barriers is paramount, however the change to deregulate is in stark contrast to the Independent Pricing Regulatory Tribunal (IPART)'s position to omit the category of fencing and deregulate wood and metal fencing in Home Building Regulation 2014 Regulatory Impact Statement.

IPART recommended increasing the minimum value of residential building work to which the Home Building Act applies from \$1,000 to \$5,000, so that a licence would only be required for work valued over \$5,000.

SPASA's concerns outlined in its submission at the time included:

- The proposal is riddled with unintended safety and compliance issues
- Many fences are used as safety barriers with complex prescribed requirements. Eg. Swimming Pools Act, Regulation and Australian Standards
- Safety barriers associated with swimming pools and spas require structural element tests as prescribed under the Australian Standard AS1926.1 – 2012
- Issues relating to the erection of swimming pool and spa barriers (and associated pending inspections) will be amplified should the proposal to deregulate proceed unamended

SPASA submits that the minimum value of residential building work to which the Home Building Act applies should be rolled back to \$1,000 for the installation and/or repair of a swimming pool fence / barrier.

STRONGER ENGAGEMENT BY GOVERNMENT

Government needs to better understand the swimming pool and spa industry rather than rely on a clustered approach to consultation and outcome - *where every industry is treated the same*.

Consultation with pool and spa small businesses is essential when developing regulations, both in relation to the options being considered and at the design and implementation stage. Once regulations are in place, it is vital that two-way communication is maintained and embraced with the view of identifying ongoing refinements.

At the review stage, such communication is essential to the performance of regulators, particularly with respect to minimising compliance costs.

A common landscape is the duplication of consultation between regulators and agencies with outcomes not being shared or acknowledged. In this regard, there is a real need for regulators and agencies to better coordinate consultations.

Simpler Planning Rules

A continuous reform agenda to strip back the delays, costs and red tape that act as complex and unnecessary barriers to pool and spa small businesses.

Reducing Compliance Costs

Streamlining the complex system of environmental and planning approvals that cut across different tiers of government.

Building Approvals

The entire process should be significantly overhauled and simplified.

For further information:

**Spiros Dassakis - COO
Swimming Pool and Spa Association of Australia (SPASA)**

Toll Free: 1800 802 482

Ph: (02) 9630 6300

Email: info@spasa.com.au

Web: www.spasa.com.au

APPENDIX A



Matthew Kean MP
Minister for Innovation and Better Regulation

Spiros Dassakis
Chief Operating Officer, Swimming Pool & Spa Association Australia
By email: spiros@spasa.com.au

Dear Mr Dassakis

The NSW Government is working hard to make it easier to do business in NSW. As the Minister for Innovation and Better Regulation, I have portfolio responsibility for consumer protection, workplace safety and innovation and I am currently exploring ways to remove unnecessary regulatory burdens and reduce administrative costs on NSW businesses.

It is often necessary for governments to impose regulatory requirements to protect the community from potential harm, create a level playing field in the market and provide consumers with rights and remedies when purchasing goods and services. However, the cost of complying with regulatory and administrative requirements can be significant, with some estimates of around \$10 billion in annual compliance costs for NSW businesses.

The costs and time taken to comply with unnecessary and overly burdensome regulation stifles the growth of NSW businesses and growing businesses create more jobs and strengthen the NSW economy. The modern global marketplace, world-wide-web and digitisation of processes and procedures, provides opportunities to achieve these desired public policy outcomes without resorting to traditional regulatory responses.

I am writing to ask your organisation for submissions and advice about sectors or statutes which, in your view, contain unnecessary regulation that incurs compliance costs for NSW businesses. I also welcome suggestions about how necessary protections can be achieved other than through traditional regulation, particularly where the alternate solution could increase competition and reduce costs to businesses, while maintaining appropriate protections for NSW consumers and workers.

I am intending that these reforms be part of a broader package to see cheaper, more transparent, more competitive and freer markets in NSW.

To assist in making suggestions for improvement within my portfolio, I have enclosed further information about sectors and industries regulated by legislation I administer. Submissions can be made to office@kean.minister.nsw.gov.au or policy@finance.nsw.gov.au by 23 May 2018.

Yours sincerely

The Hon Matthew Kean MP
Minister for Innovation and Better Regulation

Encl. Portfolio Responsibility of the Hon. Matthew Kean MP.

Attachment: Portfolio responsibilities of the Minister for Innovation and Better Regulation.

As the Minister for Innovation and Better regulation, I have portfolio responsibility for consumer protection, innovation and safe work NSW. I am responsible for administering legislation that includes regulation of the following sectors and industries:

- Building and construction including: architects, home building, plumbing, gas and electrical safety, certifiers, security of payment, building product safety, swimming pools, surveying and spatial information and the long service levy (for contract cleaners as well as the building industry)
- Charitable fundraising and community gaming (lotteries and art unions)
- Consumer protection in the purchase of goods and services, (through the Fair Trading Act, the Australian Consumer Law and the Contracts Review Act)
- Incorporated associations, co-operatives, registered partnerships and funeral funds
- Occupational licensing for; conveyancers, motor dealers and repairers, pawnbrokers and second-hand dealers, property, stock and business agents, hairdressers, tattooists and tattoo parlour operators and tow trucks
- Residential tenancies, agricultural tenancies, landlord and tenants, boarding houses, strata and community schemes, retirement villages, residential land lease communities and holiday parks
- Uncollected goods, storage liens and Innkeepers.
- Work, health and safety, rural workers accommodation, dangerous goods, and explosives.