

# Regulating Private Pool and Spa Safety

February 2023

Independent assurance report to Parliament  
2022–23:12

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# Regulating Private Pool and Spa Safety

Independent assurance report to Parliament  
Published by order, or under the authority,  
of the Parliament of Victoria  
February 2023



The Hon Shaun Leane MLC  
President  
Legislative Council  
Parliament House  
Melbourne

The Hon Maree Edwards MP  
Speaker  
Legislative Assembly  
Parliament House  
Melbourne

Dear Presiding Officers

Under the provisions of the *Audit Act 1994*, I transmit my report *Regulating Private Pool and Spa Safety*.

Yours faithfully



Andrew Greaves  
Auditor-General  
22 February 2023

The Victorian Auditor-General's Office (VAGO) acknowledges the Traditional Custodians of the lands and waters throughout Victoria. We pay our respects to Aboriginal and Torres Strait Islander communities, their continuing culture, and to Elders past and present.

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# Audit snapshot

## What we examined

We examined if councils effectively implement private pool and spa safety barrier regulations.

Councils examined: City of Greater Bendigo, Frankston City Council, Melton City Council, Mornington Peninsula Shire Council and Surf Coast Shire Council. We also surveyed all 79 Victorian councils.

## Why this is important

Safety barriers can prevent young children drowning.

Between January 2000 and May 2019, 27 young children drowned in a private pool or spa in Victoria.

In 20 of these cases the barrier did not meet safety standards.

Regulations require owners to register their pools and spas with their local council and certify their barriers comply with safety standards.

Councils play a key role in engaging and educating owners about their obligations to keep their pools and spas safe.

## What we concluded

Councils cannot be sure they have found and minimised all potential safety risks associated with private pools and spas in their municipalities.

This is because not all owners have:

- registered their pools and spas by the due date
- certified their safety barriers by the due date.

The backlog of outstanding registrations and certifications will also make it difficult for councils to manage future certification deadlines.

## What we recommended

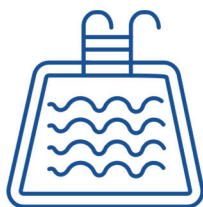
We made 4 recommendations to the 5 councils we looked at to:

- internally report on outstanding registrations and address them
- internally report on outstanding certifications and address them
- address the limitations of their registration systems
- develop procedures that outline how the council will apply the regulations and monitor owners' compliance.

[→ Full recommendations](#)

## Key facts

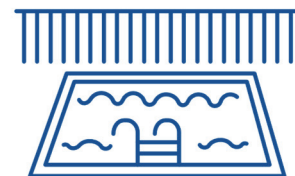
In Victoria:



there are an estimated  
**200,783**  
pools



of these pools, owners  
have not registered  
**13%**,  
or 26,068, of them



owners only certified  
**56%**,  
or 25,934, of pool and spa  
barriers that needed to be  
certified by 1 June 2022\*

\*This excludes one metropolitan council and one large shire council because they could not give us this information.

Note: All values are based on results from our survey that all councils completed in September 2022.

Source: 2022 VAGO survey data.

# Our recommendations

We made 4 recommendations to address 3 issues. The relevant councils have accepted or partially accepted these recommendations. While our recommendations are directed to the audited councils, we expect all Victorian councils to implement them where appropriate.

## Key issues and corresponding recommendations

## Agency responses

### Issue: Councils do not know if all barriers meet safety standards

All audited councils	1	Internally report on the number of pools and spas with outstanding certificates of pool and spa barrier compliance and apply a risk-based approach to determine actions and timeframes to address them (see Section 2).	<b>Accepted by:</b> City of Greater Bendigo, Frankston City Council, Melton City Council, Mornington Peninsula Shire Council, Surf Coast Shire Council
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### Issue: Registers are not always complete or accurate

All audited councils	2	Internally report on the number of unregistered pools and spas and determine actions and timeframes to address them (see Section 3).	<b>Accepted by:</b> City of Greater Bendigo, Frankston City Council, Melton City Council, Mornington Peninsula Shire Council, Surf Coast Shire Council
	3	Address their registration systems' limitations by: <ul style="list-style-type: none"> <li>improving how they monitor and report on outstanding registrations and certifications</li> <li>reducing the need for staff to manually process registrations and reminder letters</li> <li>improving how they link to information in other council systems, such as building permits (see Section 3).</li> </ul>	<b>Accepted by:</b> City of Greater Bendigo, Frankston City Council, Melton City Council  <b>Partially accepted by:</b> Mornington Peninsula Shire Council, Surf Coast Shire Council

### Issue: Procedures lack detail or are missing

All audited councils	4	Develop a procedure that: <ul style="list-style-type: none"> <li>includes a risk-based approach to address certificates of pool and spa barrier non-compliance, including timeframes and actions for different risk categories (see Section 2)</li> <li>requires staff to document decisions about responding to noncompliant pools and spas (see Section 2)</li> </ul>	<b>Accepted by:</b> City of Greater Bendigo, Frankston City Council, Melton City Council, Mornington Peninsula Shire Council, Surf Coast Shire Council
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- 
- | Key issues and corresponding recommendations   | Agency responses |
|--|------------------|
| <ul style="list-style-type: none"><li>• states when and how councils will remind owners to submit a certificate of pool and spa barrier compliance (see Section 2)</li><li>• states when and how councils will follow up with owners of unregistered pools and spas (see Section 3)</li><li>• includes information staff must consider when determining a pool or spa's construction date (see Section 3)</li><li>• requires councils to maintain related records for all pools and spas (see sections 2 and 3).</li></ul> |                  |
-

# What we found

This section summarises the pool barrier safety regulations and our key findings. Sections 2 and 3 detail our complete findings, including supporting evidence.

When reaching our conclusions, we consulted with the audited councils and considered their views. The councils' full responses are in Appendix A.

**Private swimming pools and spas** A pool or spa is private if it is on a residential property. For example, a backyard swimming pool. We refer to private pools and spas as 'pools' throughout this report for simplicity.

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**Councils' role** In Victoria, the *Building Act 1993* and *Building Regulations 2018* set the safety regulations for private pool barriers.

Councils play a key role in making sure pool owners comply with the safety regulations. Owners need to:

- register their pool with their council
- get an inspector to certify their pool barriers meet safety standards
- lodge a certificate showing their pool meets safety standards.

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**Our key findings** We found 3 key issues, which we ordered based on their risk level:

1	Audited councils do not know if all pool barriers meet safety standards because 55 per cent of owners in their municipalities have not certified their pools.
2	Audited councils' pool registers are not complete because 16 per cent of owners in their municipalities have not registered their pools. Registers are not always accurate because councils do not consistently verify pools' construction dates.
3	Audited councils' procedures to make sure owners register and certify their pools lack necessary detail. In some cases, the councils have not documented all their processes.

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These issues mean that councils do not know if all pools in their municipalities have barriers that effectively reduce the chances of young children drowning. Councils can do more to make sure owners meet their obligations to register and certify their pools.

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## Key finding 1: Councils do not know if all pool barriers meet safety standards

**Requirement to certify pools** The regulations require all pool owners in Victoria to have barriers that meet national safety standards. A pool's construction date determines which safety standards apply to it.

Owners must get an inspector to check their barriers meet safety standards every 4 years.

If barriers meet safety standards ...	If barriers do not meet safety standards ...
<p>the inspector issues a 'certificate of pool and spa barrier compliance' (compliance certificate) for the owner to submit to their council.</p> <p>The due date for the first certificate depends on a pool's age. People who own pools built on or before 30 June 1994 had to submit a compliance certificate to their council by 1 June 2022.</p>	<p>the inspector can:</p> <ul style="list-style-type: none"><li>• submit a 'certificate of pool and spa barrier non-compliance' (noncompliance certificate) to the council</li><li>• give the owner a written notice to fix the noncompliant issues within a set period of time before reinspecting it.</li></ul>

### Outstanding compliance certificates

#### Our survey

In September 2022, we surveyed all 79 Victorian councils on how they are implementing the regulations. We received responses from all councils.

Our survey asked about their registration systems, the number of pools in their municipalities and if these pools comply with the regulations.

We have included survey responses throughout this report to provide statewide context and compare the audited councils.

See Appendix C for more information about our survey.

As of September 2022, the audited councils had only received 2,835, or 45 per cent, of compliance certificates due by 1 June 2022. This means the audited councils do not know if the remaining 55 per cent, or 3,535 pools, meet safety standards.

None of the audited councils internally report on overdue compliance certificates.

### Impact of outstanding certificates

If councils have a backlog of outstanding compliance certificates they will have difficulty:

- responding to noncompliance certificates in a timely way
- processing compliance certificates due in later years.

## Key finding 2: Pool registers are not always complete or accurate

**Requirement to register pools** The regulations required owners to register existing pools with their council by 1 November 2020. Councils need to make and maintain a register to record this information.

### Gap in registered pools

Of the estimated 200,783 pools in Victoria, about 13 per cent, or 26,068, are unregistered.

Twenty per cent of these unregistered pools are from the 5 councils we audited. They estimated they had 32,879 pools, of which 16 per cent are unregistered.

## Inaccurate construction dates

Councils determine which safety standards apply to a pool based on its construction date.

We found examples at Melton City Council (Melton) and Mornington Peninsula Shire Council (Mornington) where they relied on construction dates owners reported to them.

Both councils could not always show:

- how they determined a pool's construction date
- that they tried to verify construction dates against other information.

In some cases, the construction dates they recorded were inaccurate.

## Ensuring registers are complete

What works well	What needs to improve
All audited councils communicated to residents about their responsibilities under the regulations through social media and letters.	City of Greater Bendigo (Bendigo), Frankston City Council (Frankston) and Surf Coast Shire Council (Surf Coast) do not add unregistered pools to their registers. This means they do not track a pool's compliance until the owner registers it.
All audited councils record the information the regulations require, including pools' construction dates and applicable safety standards.	<ul style="list-style-type: none"> <li>• Across Victoria, 4 of the 79 councils reported their registers did not record all the information the regulations require.</li> <li>• Another 4 councils reported they did not know if their registers record this information.</li> </ul>
The audited councils have sent reminder letters to owners who have not registered their pool.	<p>Frankston and Surf Coast do not send formal notices to compel owners to register their pool, even though the regulations give them the power to do this.</p> <p>Mornington told us it sent formal notices to owners in July 2021 but could not show us evidence of this.</p> <p>None of the audited councils have issued infringements to owners with unregistered pools. They also do not have a process for issuing infringements yet.</p> <p>Mornington told us that it plans to start issuing infringements in early 2023.</p> <p>Melton told us that it has not started issuing infringements because it might be too expensive for owners to pay a fine, registration fees and the cost to fix any barrier issues.</p>
Like other councils we surveyed, the audited councils use different information sources to identify potentially unregistered pools.	All audited councils' workflows to process registrations are time-consuming because of system limitations. Only Surf Coast has taken steps to automate its system and streamline its processes.

### Impact of incomplete and inaccurate registers

If a council's register is incomplete or inaccurate, there is a risk that it:

- cannot track unregistered pools
- cannot track which pools meet safety standards
- has applied the wrong safety standards to some pools
- is not meeting the regulation's record-keeping requirements.

## Key finding 3: Procedures around regulations are missing or have gaps

### Issues with procedures

For procedures about ...	We found that ...
following up owners of unregistered pools	<ul style="list-style-type: none"><li>• Mornington does not have a documented procedure</li><li>• while the other audited councils have documented procedures, none include timeframes for when the council should follow up.</li></ul>
determining construction dates	Bendigo is the only audited council that does not have its own documented procedure. In practice, it uses the guidance from the Victorian Building Authority, which is the state regulator for the building and plumbing industries, to determine construction dates. It plans to develop its own procedure to reflect this guidance.
following up owners with overdue compliance certificates	<ul style="list-style-type: none"><li>• Mornington does not have a documented procedure</li><li>• only Frankston's draft procedure specifies when a technical response, such as a physical inspection, is needed and when it should happen.</li></ul>
responding to barriers with a noncompliance certificate	<ul style="list-style-type: none"><li>• Mornington does not have a documented procedure</li><li>• only Bendigo's and Frankston's procedures include a risk assessment. But they do not define each of the risk categories or give examples.</li></ul>

### Consolidating documented procedures

Frankston has combined its processes into a single procedure. However, its procedure is a draft. It does not know when it will finalise the procedure.

The other audited councils document each process separately. This means it is not always:

- clear how different processes connect to each other
- easy to identify gaps in processes
- easy to find relevant documents and templates.

### Impact of not having clearly documented procedures

Without documented, consolidated procedures, councils cannot make sure their staff have clear guidance on:

- following up owners of unregistered pools
- promptly responding to noncompliance certificates
- following up owners with overdue compliance certificates.

# 1.

## Audit context

In Victoria, most home pools that young children have fatally drowned in did not have barriers that met the safety standards. Councils implement the regulations to reduce the risk of this happening.

### Home pools in Victoria

#### Number of registered pools

As of September 2022, of the estimated 200,783 private pools in Victoria, owners have registered 174,715 of them.

As Figure 1 shows, 27,607, or 16 per cent, of these pools are in the 5 audited councils' municipalities.

Figure 1: Number of registered pools in Victoria

	Registered pools
Bendigo	3,551
Frankston	5,474
Melton	3,125
Mornington	13,807
Surf Coast	1,650
<b>All audited councils</b>	<b>27,607</b>
<b>Victorian total</b>	<b>174,715</b>

Source: 2022 VAGO survey data.

### The regulations for pool barriers

#### What pools need barriers

All pools that can hold more than 30 cm of water must have a safety barrier that complies with the safety standards.

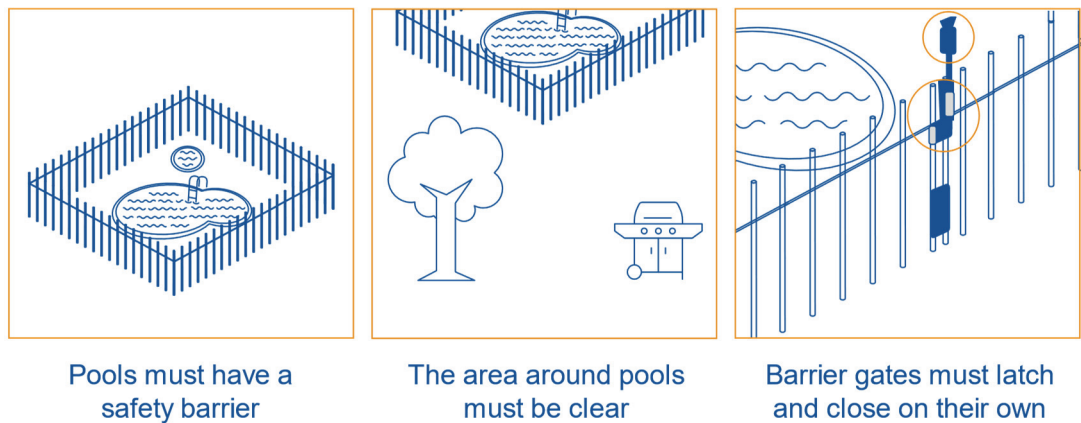
This applies to in-ground and above-ground pools as well as indoor and outdoor pools.

## Safety standards for barriers

A pool's construction date determines the safety standards that apply to it.

As Figure 2 shows, the safety standards have some common requirements.




Figure 2: Common requirements under the safety standards



Source: VAGO.

If ...	An unsupervised child could ...
a pool does not have a barrier	easily access and fall into the pool.
the area around a pool is not clear	use an object to climb over the barrier and fall into the pool.
a pool's barrier gate does not self-latch and self-close	easily open the gate and fall into the pool.

## Responsibilities under the regulations

The regulations require...	To ...
 local councils	<ul style="list-style-type: none"> <li>make and maintain a pool register</li> <li>inform pool owners when they need to register their pools and certify their barriers</li> <li>determine pools' construction dates.</li> </ul>
 pool owners	<ul style="list-style-type: none"> <li>register their pools with their council by 1 November 2020</li> <li>get an inspector to check their barriers meet safety standards</li> <li>address any noncompliance issues</li> <li>submit a compliance certificate to the council</li> <li>recertify the pool every 4 years.</li> </ul>
 independent pool inspectors	<ul style="list-style-type: none"> <li>issue a compliance certificate to owners if their barriers meet safety standards</li> <li>submit a noncompliance certificate to the council if necessary.</li> </ul>

## Challenges implementing the regulations

### Lack of resources

In its 2018 *Local Government Workforce and Future Skills Report*, the Municipal Association of Victoria found that 74 per cent of Victorian councils are experiencing a skills shortage that has contributed to resourcing gaps.

One of the key professions in shortage is building surveyors.

The Australian Local Government Association found in its *2022 Local Government Workforce Skills and Capability Survey* that 91 per cent of councils across Australia were experiencing skills shortages in 2021–22. The survey also found that building surveyors were in the top 5 skill shortage areas.

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### Shortage of pool inspectors

Under the regulations, owners need to find their own inspector or building surveyor to certify their pool.

However, it has been challenging for owners to do this in a timely way because there is a shortage of qualified pool inspectors in Victoria and high demand for their services.

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### COVID-19 impacts

The Victorian Government extended the due dates for owners to register and certify their pools because of the COVID-19 pandemic.

Additionally, COVID-19 restrictions meant it was not always possible for inspectors to visit properties.

It was also difficult for new inspectors to complete practical components of their training. This contributed to the shortage of qualified inspectors.

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## 2. Ensuring barriers meet safety standards

Councils do not know if all barriers meet safety standards. This is because councils across Victoria have only received 56 per cent of compliance certificates that were due by 1 June 2022. The audited councils have only received 45 per cent.

The audited councils do not have detailed procedures to make sure owners certify their barriers meet safety standards on time and fix any noncompliance issues. This means councils are not effectively minimising the risk of drownings due to noncompliant barriers.

### Compliance and noncompliance certificates

#### Due dates for compliance certificates

A pool's construction date determines when the owner needs to submit their first compliance certificate to the council.

The Victorian Government set the earliest due date for the oldest pools. This is because they are more likely to have a longer period of wear and tear without being checked by an inspector.

If the pool or spa was/is constructed ...	Then the owner must submit the compliance certificate ...
on or before 30 June 1994	by 1 June 2022.
between 1 July 1994 and 30 April 2010	by 1 June 2023.
between 1 May 2010 and 31 October 2020	by 1 June 2024.
on or after 1 November 2020	within 30 days of it being issued.

Owners need to certify their pool and submit a compliance certificate every 4 years. The due date depends on when the owner lodged the previous compliance certificate.

### Why inspectors issue noncompliance certificates

In an August 2021 survey, the Victorian Municipal Building Surveyors Group found the most common reasons inspectors issued noncompliance certificates at 36 councils were:

- they believed the owner would not make the barrier comply within 60 days (42 per cent)\*
- they believed the barrier did not comply in more than one way (25 per cent)\*
- the barrier posed a significant and immediate risk to life or safety (17 per cent)\*
- the owner did not fix the noncompliance issues by the date specified in a written notice (17 per cent)\*.

This shows that not all noncompliant barriers present the same safety risks.

Councils should address noncompliant barriers that pose a greater risk to life or safety more urgently than others.

\*Percentages rounded.

## Councils do not know if all registered pools meet safety standards

### Compliance certificates outstanding in September 2022

As of September 2022, Victorian councils had only received 56 per cent of compliance certificates that were due by 1 June 2022.

This means councils do not know if the remaining pools meet safety standards.

The audited councils had a higher percentage of outstanding compliance certificates. As Figure 3 shows, they only received 45 per cent.

Surf Coast was the only audited council that received a higher percentage (74 per cent) of compliance certificates compared to the Victorian total.

Figure 3: Compliance certificates received for pools built on or before 30 June 1994

	Registered pools	Registered pools with compliance certificates	Registered pools with compliance certificates
Bendigo	481	229	48%
Frankston	2,739	1,363	50%
Melton	336	113	34%
Mornington	2,787	1,110	40%
Surf Coast	27	20	74%
<b>All audited councils</b>	<b>6,370</b>	<b>2,835</b>	<b>45%</b>
<b>Victorian total</b>	<b>46,465</b>	<b>25,934</b>	<b>56%</b>

Source: 2022 VAGO survey data.

Note: All values are based on compliance certificates councils received at the time they completed our survey in September 2022. The Victorian total excludes one metropolitan council and one large shire council because they could not give us this information.

# Councils lack detailed procedures to make sure owners certify pools on time

## Why councils need detailed procedures

Councils need detailed procedures to make sure owners certify their pools and submit compliance certificates on time. In particular, a documented procedure for:

- following up owners with outstanding certificates
- reminding owners to get their barriers inspected.

We found that the audited councils:

- have gaps in their follow-up procedures
- do not all send reminders to owners.

## Internal reporting

None of the audited councils internally report on how many pools have outstanding certificates.

They know they have not received all compliance certificates that were due by 1 June 2022. But without internal reporting, they do not know the extent of this backlog.

If councils have a backlog of outstanding certificates, they will find it difficult to manage the additional workload from certificates due in June 2023 and June 2024.

## Following up outstanding certificates

All audited councils have a process for sending follow-up letters to owners who have missed their certificate’s due date.

All of the audited councils, except Mornington, have a documented procedure.

Mornington told us it sends follow-up letters to owners. But it has not documented this process and only sends these letters on an ad hoc basis.

We found gaps in the other councils’ procedures. This increases the risk that they might use them inconsistently.

For example ...	But ...
Bendigo, Frankston, Melton and Surf Coast have documented procedures for issuing warning letters and infringements	none specify: <ul style="list-style-type: none"><li>• clear timeframes for when these actions need to occur</li><li>• if a technical response is needed, such as a physical inspection.</li></ul>
Frankston has drafted a documented procedure	it does not know when it will finalise it.

### Reminding owners about upcoming due dates

All audited councils tell owners the due date for their next 4-yearly inspection when they submit a compliance certificate.

Each owner's due date is different because it depends on when they submitted their last compliance certificate.

Mornington is the only audited council that does not have a process for sending reminders before due dates.

This means it relies on owners to remember when their next certificate is due.

The other audited councils plan to send reminders. But only Bendigo and Surf Coast have letter templates.

Bendigo told us that its system automatically sends a reminder 30 days before a due date. This is an example of better practice because it reduces the manual work staff need to do.

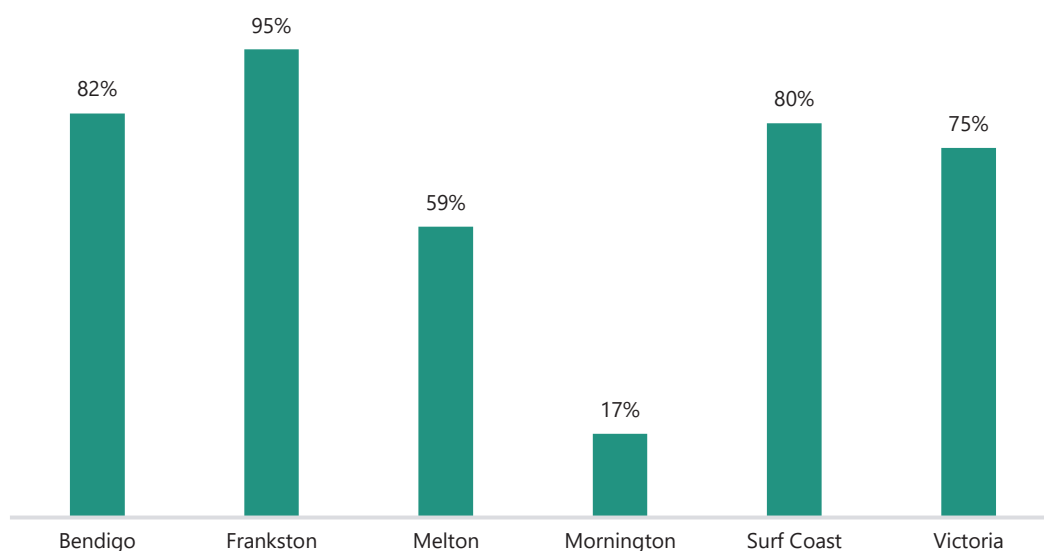
### Compliance certificates submitted by 1 June 2022

Across the audited councils, 62 per cent of submitted compliance certificates for pools built on or before 30 June 1994 met the 1 June 2022 due date.

This was less than the Victorian total of 75 per cent.

As Figure 4 shows, Mornington, which does not have a process for reminding owners, only received 17 per cent of compliance certificates on time.

Figure 4: Compliance certificates councils received for pools built on or before 30 June 1994 that owners submitted by the 1 June 2022 due date



Source: 2022 VAGO survey data.

Note: The Victorian total excludes 2 metropolitan councils, one interface council, one regional city council and one large shire council because they could not give us this information.

## Councils can develop more detailed procedures to address noncompliant barriers

### Number of noncompliance certificates received

As Figure 5 shows, councils across Victoria have received 1,440 noncompliance certificates since the regulations came into effect in 2019.

The audited councils received 130, or 9 per cent, of these certificates.

Across Victoria, owners have not addressed 49 per cent of noncompliance certificates. At the audited councils, owners have not addressed 32 per cent.

The number of pools with unaddressed noncompliance certificates is low compared to the number of registered pools. However, there is a risk that some of these pools pose a significant risk to life and safety.

Figure 5: Noncompliance certificates received, addressed and not addressed

	Noncompliance certificates received	Noncompliance certificates addressed*	Unaddressed noncompliance certificates
Bendigo	10	8	20%
Frankston	24	17	29%
Melton	4	2**	50%**
Mornington	90	60	33%
Surf Coast	2	2	0%
<b>All audited councils</b>	<b>130</b>	<b>89</b>	<b>32%</b>
<b>Victorian total</b>	<b>1,440</b>	<b>738</b>	<b>49%</b>

Source: 2022 VAGO survey data.

Note: All values are based on noncompliance certificates councils received by September 2022. The Victorian total excludes one large shire council because it could not give us this information.

\*Councils consider a noncompliance certificate addressed if the owner submits a compliance certificate or if the council considers the pool decommissioned.

\*\*Melton told us it has since resolved one of the 2 noncompliance certificates that were not addressed at the time it responded to our survey. The remaining noncompliance certificate is subject to further enforcement action. Based on this advice, Melton's percentage of unaddressed noncompliance certificates is 25 per cent as of December 2022.

## Procedures for noncompliant barriers

Councils need a documented procedure to make sure they consistently respond to noncompliance certificates and compel owners to fix their barriers. We found:

- Mornington is the only audited council that does not have a documented procedure
- the councils with documented procedures can improve the quality of their guidance.

For example ...	But ...
Bendigo's and Frankston's procedures have a risk assessment step to inform their response	they do not define the risk categories or give examples.
Frankston has combined its guidance and relevant templates into a single draft procedure	it does not know when it will finalise it.
Melton has drafted an overarching procedure	<ul style="list-style-type: none"> <li>• it does not know when it will finalise it</li> <li>• it does not combine guidance and templates for all its processes</li> <li>• it does not refer to its separate building policy, which outlines the risk-based approach it uses to assess all building issues, including pools.</li> </ul>
Surf Coast's procedure focuses on administrative tasks, such as updating registers	it does not mention technical responses, such as physical inspections.

### Not assessing noncompliant barriers by risk level

Councils should assess the risk level reported by each noncompliance certificate and prioritise high-risk pools.

We found examples at Bendigo and Frankston where the council used the same approach to address lower and higher-risk noncompliant pools.

Both councils' records do not show how they assessed the risk levels.

Case study: Bendigo used the same response to address noncompliant pools regardless of their risk level.

In April 2022, Bendigo received a noncompliance certificate for a pool that had climbable barriers and easy access to the pool area. The inspector issued the noncompliance certificate because the owner did not fix the barriers within a reasonable timeframe.

In May 2022, Bendigo received a noncompliance certificate for another pool that had more significant issues, including:

- gaps between the fence post and barrier
- climbable barriers
- deteriorated fence rails.

Unlike the first case, the inspector immediately issued a noncompliance certificate because the barrier was in poor condition and young children lived at the property. The certificate said this context meant that the issues 'pose a significant and immediate risk to life or safety'.

In both cases, Bendigo issued a formal notice to the owner requiring them to lodge a compliance certificate by a set due date.

Bendigo has since received compliance certificates for both pools. However, it is not clear why it used the same approach when one pool posed a higher risk than the other.

## Not all councils keep detailed records about noncompliant barriers

### Issues with record-keeping systems and procedures

None of the audited councils have a procedure that outlines what records they need to keep about pools.

However, they all maintain basic documents, including:

- copies of compliance and noncompliance certificates
- formal notices they have issued to owners.

Bendigo's and Mornington's systems have limitations that mean they cannot easily find and filter past records to see how they responded to them.

For example, Bendigo's system cannot filter records for pools that have had noncompliance certificates in the past. Bendigo told us it is working to introduce this function.

Mornington's system has an ongoing issue where it cannot open documents provided by owners. Mornington told us it is working to resolve this issue and is starting with the most recent records.

### Examples of detailed record keeping

Frankston and Surf Coast keep detailed records that clearly show how they responded to noncompliance certificates.

They also keep records of their emails with owners and independent inspectors.

This is an example of better practice because it lets them understand:

- how they have applied their procedures
- the reasons behind their responses to noncompliance certificates.

Case study: Frankston and Surf Coast keep detailed records, which help them know if they have actively responded to noncompliance certificates.

#### **Frankston**

In July 2021, Frankston received a noncompliance certificate for a pool built in 1973. The inspector listed multiple issues, including the barrier not being the required height.

Frankston's records showed that it:

- issued a notice requesting entry to the property for an inspection
- called the owner, who said they were experiencing financial difficulties and requested the council to postpone the inspection
- advised the owner of their obligations under the regulations
- advised the owner of the council's right to send out final reminders and infringements
- emailed the owner multiple times requesting updates.

The owner submitted a compliance certificate in April 2022.

#### **Surf Coast**

In September 2021, Surf Coast received a noncompliance certificate for a pool built in 2002. The inspector reported multiple issues, including a deteriorated gate latch.

Surf Coast kept evidence of its correspondence with the owner's property manager. Two days after receiving the noncompliance certificate, it issued a formal notice to the owner requesting them to submit a compliance certificate by November 2021. The council also requested multiple updates on the owner's progress.

The council received a compliance certificate in October 2021.

# 3.

## Tracking if barriers meet safety standards

Councils estimate there are around 26,000 unregistered pools in Victoria.

Twenty per cent of these pools are in the audited councils' municipalities. This is because they do not always follow their procedures to make sure owners register pools.

The audited councils' registers are also not always complete or accurate. This means they cannot effectively track if pool barriers comply with safety standards.

### Information councils need to record in their pool registers

#### Requirements for pool registers

The regulations say what information councils must record about pools and their owners in their registers, including:

- owners' names
  - property addresses
  - construction dates
  - each pool's applicable safety standards.
- 

#### Importance of construction dates

The safety standards have become stricter over time.

If a construction date in a council's register is wrong, the council may apply historic safety standards that are more lenient than for a newer pool.

It also means the council could apply stricter safety standards to older pools. This means an owner may need to pay more to upgrade their barriers to meet newer standards even if they complied when they built the pool.

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### Councils can do more to actively reduce the number of unregistered pools

#### Why register pools

If an owner does not register their pool with the council, the council cannot track if it meets safety standards.

Councils can help make sure owners register their pools by:

- clearly communicating with residents about their responsibilities under the regulations
  - following up owners with unregistered pools.
-

## Number of unregistered pools

Our survey found there are an estimated 200,783 pools in Victoria.

Of these pools, 26,068, or 13 per cent, are unregistered. Twenty per cent, or 5,272, of the unregistered pools are in the audited councils' municipalities.

As Figure 6 shows, Bendigo and Mornington had a higher percentage of unregistered pools compared to the Victorian total.

Some of these unregistered pools could have noncompliant barriers that councils do not know about.

This means the number of noncompliant barriers could be higher than the number of noncompliance certificates councils have received so far.

Figure 6: Estimated number of pools, registered pools and unregistered pools

	Estimated number of pools	Number of registered pools	Percentage of estimated unregistered pools
Bendigo	4,500	3,551	21%
Frankston	5,835	5,474	6%
Melton	3,400	3,125	8%
Mornington	17,294	13,807	20%
Surf Coast	1,850	1,650	11%
<b>All audited councils</b>	<b>32,879</b>	<b>27,607</b>	<b>16%</b>
<b>Victorian total</b>	<b>200,783</b>	<b>174,715</b>	<b>13%</b>

Source: 2022 VAGO survey data.

## Procedures to address unregistered pools

Mornington does not have a documented procedure that outlines how it addresses unregistered pools.

The other audited councils have documented procedures. However, only Frankston's draft procedure has timeframes for following up with owners.

Frankston's draft procedure shows it plans to audit its list of unregistered pools every 3 months and then give owners a formal notice to register them. Frankston told us it intends to start doing this in early 2023.

Surf Coast told us that it has been using a position funded by a Victorian Government program since August 2022 to:

- find unregistered pools
- follow up owners with unregistered pools
- send owners formal notices to register their pools.

It plans to use this position in the future to:

- process new registrations
- send reminders for upcoming compliance certificates
- follow up overdue compliance certificates.

**Councils' powers under the regulations**

Councils are not using all their powers under the regulations to compel owners to register their pools.

<b>Under the regulations, councils can ...</b>	<b>But ...</b>
add unregistered pools to their registers	only Mornington and Melton have done this.  This allows these councils to track unregistered pools' compliance over time.
send owners a formal notice that requires them to register their pool and pay the associated fee by a set date	only Melton and Bendigo have sent them.  Mornington told us it sent formal notices to owners in July 2021. But it could not show us evidence of this.
issue infringements to owners with unregistered pools	none of the audited councils: <ul style="list-style-type: none"> <li>• have issued them</li> <li>• have a process for issuing them.</li> </ul> Melton told us this is because it does not want to make owners pay an infringement as well as a registration fee and the cost to fix any barrier issues because it might be too expensive.  Mornington told us it plans to start issuing infringements in early 2023.

**Informing residents of their responsibilities**

All audited councils clearly communicated with residents about their responsibility to register and certify their pools when the new regulations came into effect.

They did this through letters to residents, social media posts and their websites.

## Councils effectively use different tools to find pools

### Tools to find pools

Councils need to know how many pools are in their municipalities and where they are so they can make sure owners register and certify them.

As Figure 7 shows, the audited councils use multiple tools to find pools. For example, councils keep building permit records. These records show which properties have applied to build a new pool.

Figure 7: Common tools the audited councils used to find pools

	Building permit records	Aerial photography	Existing pool and spa register	Prior building enforcement records	Geographic mapping
Bendigo	✓	✓	✓	✓	X
Frankston	✓	✓	✓	✓	✓
Melton	✓	✓	✓	X	✓
Mornington	✓	✓	✓	✓	✓
Surf Coast	✓	✓	✓	X	✓

Source: 2022 VAGO survey data.

### Reliability of tools to find pools

Our survey found that the most common tool councils use to find pools is building permit records. This is because:

- building permits have reliable information about where and when owners have built pools
- councils record building permits and keep related documents.

Using multiple tools is better practice because councils cannot identify all pools from one source of information.

For example ...	Can be limited because ...
building permit records	some owners may have built a pool without getting a permit.
manually checking aerial photographs for pool-like structures (see Figure 8 for an example)	aerial photographs: <ul style="list-style-type: none"> <li>• might not show undercover pools</li> <li>• can be outdated.</li> </ul>

Figure 8: Pool-like structures in an aerial photograph from Surf Coast



Source: VAGO, adapted from Surf Coast.

### Certainty in estimated pool numbers

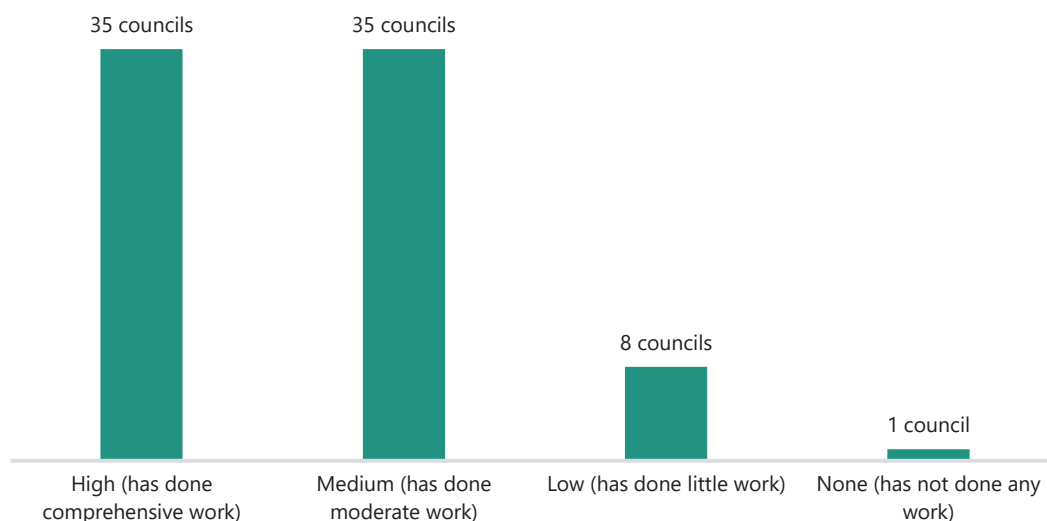
Of the 79 Victorian councils, 70, including the 5 audited councils, have a high or medium degree of certainty in their estimated number of pools.

This is because they have used tools such as the ones in Figure 7.

However, as Figure 9 shows, 9 other councils have low or no certainty in their estimate because they have done little or no work to find pools.

This means these councils cannot track how many pools in their municipalities meet safety standards.

Figure 9: Victorian councils' level of certainty in their estimated number of pools



Source: 2022 VAGO survey data.

## Councils' registers are not always complete

### Procedures for processing registrations

All audited councils have a documented procedure that outlines how staff should process registrations for new and existing pools in their systems. This helps councils record the correct information.

However, Frankston and Melton do not know when they will finalise their draft procedures.

Frankston's draft procedure gives staff detailed guidance and has templates for relevant steps in the registration process, which is better practice.

### Recording the required information

Our survey asked councils if their registers record all the information the regulations require.

Seventy-one councils, including all the audited councils, reported that they do.

Four councils reported that their registers do not and 4 did not know. This means these 8 councils' registers may not be complete and meet the regulations' requirements to record certain information.

## Processing registrations in a timely way

The regulations require councils to add a pool to their register when the owner registers it.

None of the audited councils' registration systems let them do this in a timely way.

This is because:

- their systems rely on staff to manually enter information
- they told us they lack staff resources.

These issues reduce councils' ability to keep their registers complete and up to date.

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## System limitations

All the audited councils' registration systems have limitations that make processing registrations more time-consuming.

For example ...	This means that ...
None of the councils' systems can automatically track outstanding registrations and compliance certificates.	staff must manually search for this information for internal reporting.
Only Surf Coast's system links to information in its other systems. For example, building permit records for newly constructed pools.	staff at the other audited councils must manually find and enter relevant information, such as construction dates, from one system to the other.
Frankston's system cannot record unregistered pools. This is because it cannot prevent owners creating a duplicate record when they register their pool.	it needs to track unregistered pools' compliance outside of its system.  Frankston told us that it starts tracking an unregistered pool's compliance when it issues the owner an infringement for not registering their pool.

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## Reducing manual work

Surf Coast is the only audited council that has started addressing its system's limitations.

For example, in June 2022 it made a change that allows its register to automatically create a record when its building system receives a document that shows someone has built a new pool.

This means the council can:

- start tracking a new pool's registration and compliance status before the owner registers it
- reduce the manual work staff do when processing a registration because the system already has the relevant details, such as the construction date.

As part of this change, the system will not create a new record for a pool if one already exists. This helps prevent duplicate records.

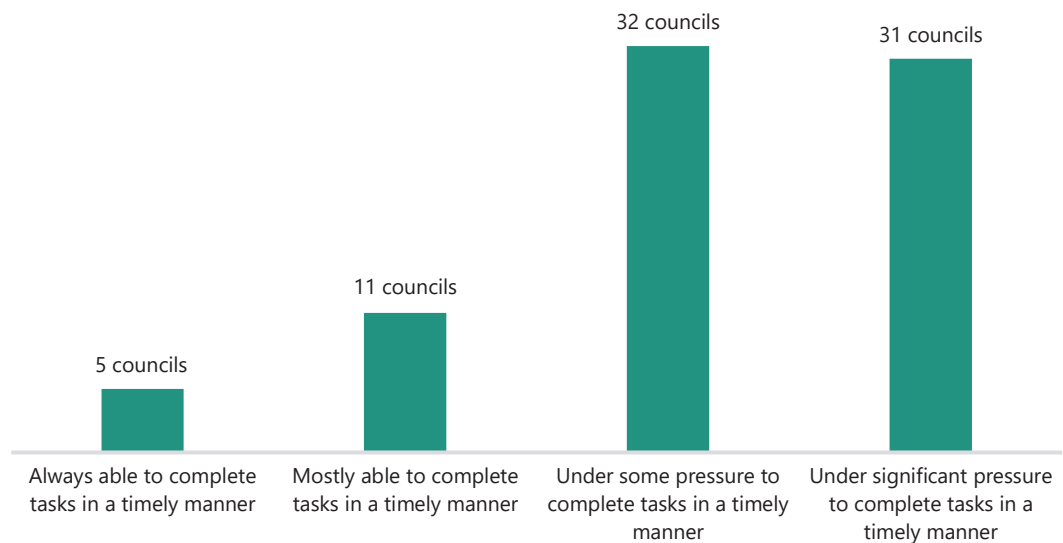
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## Lack of resources

In our survey, we asked councils if they have the resources to complete pool-related tasks in a timely manner.

As Figure 10 shows, only 16 councils said their resourcing was mostly or always adequate.

Figure 10: Adequacy of councils' resources to complete tasks in a timely manner



Source: 2022 VAGO survey data.

## Reviewing resource allocations

In our survey, Bendigo and Melton were the only audited councils that said their staff are either mostly able or are under some pressure to complete tasks in a timely way.

This is because both councils formally reviewed their resources before the regulations came into effect in 2019. This means they were better prepared for the additional workload.

Frankston, Mornington and Surf Coast all responded that they are under significant pressure to complete tasks in a timely way.

Frankston recently reviewed its resources, but it did this after the regulations came in.

Mornington and Surf Coast have not formally reviewed their resources. Surf Coast told us that it plans to do this in the first half of 2023.

# Information in councils’ registers is not always accurate

## Determining construction dates

All audited councils have a process to determine a pool’s construction date when the owner registers it.

Councils use reliable sources, including building permit records, to:

- check if the construction date an owner has provided is correct
- determine a construction date if an owner has not provided one.

If reliable information is not available, councils use other sources, such as aerial photography and real estate listings.

All audited councils except Bendigo have documented their own procedure so staff know what information they should consider.

Bendigo uses guidance issued by the Victorian Building Authority. This guidance outlines information councils can consider to determine a pool's construction date. Bendigo plans to develop its own procedure to reflect this guidance.

## Inaccurate construction dates

We found examples where Melton and Mornington used construction dates that owners provided.

Both councils could not always show:

- how they determined a construction date
- that they tried to verify construction dates against other information.

For example ...	This means that ...
Melton accepted construction dates for 4 pools we reviewed without verifying the information. The date was incorrect for 3 of these pools.	in some cases, the council recorded incorrect construction dates in their registers.
Mornington's system allows it to record notes within each pool record on how staff determined the construction date. But it did not do this for 2 pools we reviewed.	

## Updating records in pool registers

All audited councils have a process for updating records for decommissioned pools in their registers.

Mornington and Surf Coast are the only audited councils that specify what evidence they need before updating records in their register.

For example, Mornington confirms a pool is decommissioned through a physical inspection. Surf Coast accepts photos from the owner or an inspection.

Bendigo and Melton use the Victorian Building Authority's guidance to determine if a pool is decommissioned. But this guidance does not outline what evidence councils should require owners to submit to prove their pool has been decommissioned.

Both councils told us they are currently updating their procedure in line with the Victorian Building Authority's guidance.

## Duplicate records

Bendigo's and Melton's registers have duplicate records. This means they cannot accurately determine the number of pools on their register without manually searching through their records.

Bendigo's system creates a duplicate record when an owner accidentally starts an online registration more than once. Its system shows if there is more than one application for a property. But it cannot automatically fix this so staff must manually find and remove duplicates.

Melton's system does not allow it to remove any pools records, even when it is a duplicate or the pool no longer exists.

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# Appendices

[Appendix A: Submissions and comments](#)

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[Appendix B: Abbreviations, acronyms and glossary](#)

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[Appendix C: Audit scope and method](#)

# APPENDIX A

## Submissions and comments

We have consulted with Bendigo, Frankston, Melton, Mornington and Surf Coast, and we considered their views when reaching our audit conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to those agencies and asked for their submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

### Responses received

Agency	Page
City of Greater Bendigo	A-2
Frankston City Council	A-5
Melton City Council	A-9
Mornington Peninsula Shire Council	A-12
Surf Coast Shire Council	A-16



30 January 2023

Mr Andrew Greaves  
Auditor-General  
Victorian Auditor-General's Office  
Level 31 / 35 Collins Street  
MELBOURNE VIC 3000

Dear Mr Greaves

**Proposed Performance Audit Report: Regulating private pool and spa safety**

Thank you for the opportunity provided to the City of Greater Bendigo to participate in the VAGO Performance Audit – *Regulating private pool and spa safety*.

The City's action plan addressing recommendations from the *Regulating private pool and spa safety* audit are included as part of this correspondence.

I would like to thank the VAGO team who worked with City officers involved in the audit, allowing for a cooperative and positive approach.

Should you require any further information or wish to discuss the City's action plan further, please contact Jock Schofield, Manager Safe and Healthy Environments on 5434 6270.

Yours sincerely



Craig Niemann  
**Chief Executive Officer**

If you are deaf, hearing or speech impaired, please call us via the National Relay Service on 133 677 or [www.relayservice.com.au](http://www.relayservice.com.au)

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**City of Greater Bendigo – Action plan to address recommendations from  
*Regulating private pool and spa safety***

VAGO recommendation	Council response	Action	Completion date
Internally report on the number of pools and spas with outstanding certificates of compliance and apply a risk-based approach to determine actions and timeframes to address them.	Accepted	COGB to determine and document required actions to be taken for outstanding certificates of compliance.	July 2023
Internally report on the number of unregistered pools and spas and determine actions and timeframes to address them	Accepted	COGB to investigate further methods to identify unregistered pools within the municipality and document an appropriate course of action for non-registration.	July 2023
Address their registration systems' limitations by: <ul style="list-style-type: none"> <li>improving how they monitor and report on outstanding registrations and certifications</li> <li>reducing the need for staff to manually process registrations and reminder letters</li> <li>improving how they link to information in other council systems, such as building permits.</li> </ul>	Accepted	COGB to engage with E-VIS and Council I.T department to identify "short-comings" within the system and investigate possible improvements for monitoring outstanding registrations and manual processes.	September 2023
Develop a procedure that: <ul style="list-style-type: none"> <li>includes a risk-based approach to address certificates of noncompliance, including timeframes and actions for different risk categories</li> <li>requires staff to document decisions about responding to noncompliant pools and spas</li> </ul>	Accepted	COGB to determine and document required actions to be taken for certificates of noncompliance, including a documented risk matrix and procedure for each matrix category.  COGB to review and improve where possible current procedure for responding to non-compliant pools.	August 2023

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**A.B.N.** 74 149 638 164

<ul style="list-style-type: none"> <li>states when and how councils will remind owners to submit a certificate of compliance</li> </ul>		<p>COGB to review and improve where possible current procedure to remind and compel owners to provide a certificate of compliance – (note reminder letters are automatically sent to owners for 4 yearly inspection certificates after initial pool registration)</p>	
<ul style="list-style-type: none"> <li>states when and how councils will follow up with owners of unregistered pools and spas</li> </ul>		<p>COGB to review current process and include documented timeframes for follow up and complete set-up of issuing infringements to owners with unregistered pools</p>	
<ul style="list-style-type: none"> <li>includes information staff must consider when determining a pool or spa's construction date</li> </ul>		<p>COGB to document its own procedure for determining construction dates (currently COGB uses VBA pool and spa registration guidelines).</p>	
<ul style="list-style-type: none"> <li>requires councils to maintain related records for all pools and spas.</li> </ul>		<p>COGB is currently working with E-VIS to provide a "filter-function" to the system which allows a search of historical records where pools were deemed non-compliant in the past but have transitioned to compliant.</p>	



**Frankston City Council**

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Telephone: 1300 322 322

27 January 2023

Andrew Greaves  
Auditor-General  
Victorian Auditor-General's Office  
C/- [REDACTED]

Dear Andrew

**RE: Proposed Performance Audit Report: Regulating Private Pool and Spa Safety**

Thank you for your letter addressed to Mayor Nathan Conroy dated 16 January 2023 and for the opportunity to review and respond to the audit recommendations directed to Frankston City Council.

I confirm that Frankston City Council accepts all the audit recommendations directed and am pleased to advise that work on some recommendations has already commenced. Since the audit, Council has issued infringements to all unregistered pool owners, requiring registration within 30 days, and has made further progress toward essential system improvements. The attached table outlines the Council's action plan to address these recommendations in greater detail.

Council thanks the Audit team for their collaborative and consultative approach, particularly with the opportunity to meet, discuss and provide a response to each of the findings or recommendations throughout the audit process.

Please contact Mr. Sam Clements, Manager Development Services on 1300 322 322 should you have any queries or would like any further information regarding Council's action plan to better regulate private pool and spa safety.

Yours faithfully



**Phil Cantillon**  
**CHIEF EXECUTIVE OFFICER**

cc: Mayor Nathan Conroy  
Angela Hughes, Director Communities  
Sam Clements, Manager Development Services

Seaford » Frankston » Langwarrin » Karingal » Skye » Frankston South » Frankston North » Carrum Downs » Langwarrin South » Sandhurst



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**Frankston City Council – Action plan to address recommendations from *Regulating private pool and spa safety***

<b>VAGO recommendation</b>	<b>Council response</b>	<b>Action</b>	<b>Completion date</b>
Internally report on the number of pools and spas with outstanding certificates of compliance and apply a risk-based approach to determine actions and timeframes to address them.	Accepted	<p>Council already has the ability to generate a report on this at any time and reports on this quarterly through its legislative compliance system (RelianSys), which goes to the audit and risk committee. Council is applying a risk-based approach to its actions and timeframes.</p> <p>More specifically, Council has sent out reminder letters to all these property owners (with outstanding certificates), will be sending out warning letters and will then be issuing infringements. These processes will be documented in the final Building Services- Pool Register Procedure.</p>	<p>Warning letters- 28 February 2023 (allowing 30 days to lodge certificate)</p> <p>Infringements issued – 31 March 2023</p> <p>Procedure updated- 31 March 2023</p>
Internally report on the number of unregistered pools and spas and determine actions and timeframes to address them	Accepted	<p>Since the audit, Council has sent out infringements to all unregistered pools requiring registration within 30 days.</p> <p>If pools remain unregistered past the nominated 30 day deadline, Council will then manually register the pools on the owner's behalf and invoice for the applicable fees. If these newly registered pools have a certificate of barrier compliance due or overdue Council will need to consider if a different approach is taken as opposed to other overdue certificates of barrier compliance (e.g. whether we move straight to Building Enforcement action).</p> <p>Council will document its approach within the Building Services- Pool Register Procedure.</p>	<p>Registering overdue pools- 28 February 2023</p> <p>Procedure updated- 31 March 2023</p>
Address their registration systems' limitations by: a) improving how they monitor and report on	Accepted	Business Improvement project plan is being developed, with an officer dedicated to the improvement work needed to improve our registration system.	System Improvements completed - 31 August 2023

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<p>outstanding registrations and certifications</p> <p>b) reducing the need for staff to manually process registrations and reminder letters</p> <p>c) improving how they link to information in other council systems, such as building permits.</p>		<p>a) Various system (Pathway) improvements are planned to improve monitoring and reporting, including:</p> <ul style="list-style-type: none"> <li>- Report that identifies outstanding fees</li> <li>- Reports on outstanding certificates and those nearing the due date</li> <li>- Report on outstanding barrier improvement notices</li> </ul> <p>b) An automated process is unfortunately not possible. Each registration must be done manually. However, there is a possibility to automate reminder letters on all current registrations, similar to health business registration reminders and renewals.</p> <p>c) The current process already links the licensing module to the application (building permits) module. We cannot link to historic files, but we do include the historic building permit card reference in the pool licence/registration.</p> <p>In addition to the report and renewal improvements above, the business project scope includes improvements to the licensing workflows, and the infringements and enforcement modules of the Pathway system.</p>	<p>Procedure updated- 31 March 2023</p>
<p>Develop a procedure that:</p> <p>a) includes a risk-based approach to address certificates of noncompliance, including timeframes and actions for different risk categories</p> <p>b) requires staff to document decisions about responding to noncompliant pools and spas</p>	Accepted	<p>As identified in the audit report, Frankston City Council already has a Draft Building Services- Pool Register Procedure which documents most of these matters, but we accept this procedure can be further strengthened. This procedure will be updated and moved from draft to final format.</p> <p>A) A risk assessment is now undertaken as per the procedure. All immediate risk 'non-compliance' is addressed via the Senior Building Enforcement Officer and treated differently. A Building Enforcement file is created and an inspection by a Council Building Officer is undertaken as soon as possible. Expected timeframes and actions to address certain risk types will be detailed in the Procedure.</p> <p>B) The procedure already requires Building Officers to keep file notes of decisions made in respect to noncompliant pools.</p>	

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<p>c) states when and how councils will remind owners to submit a certificate of compliance</p> <p>d) states when and how councils will follow up with owners of unregistered pools and spas</p> <p>e) includes information staff must consider when determining a pool or spa's construction date</p> <p>f) requires councils to maintain related records for all pools and spas.</p>		<p>C) Council will document the 'reminder' process in the Building Services- Pool Register Procedure. Generally, the process is- reminder letter, then warning letter providing 30 days and then infringement/s issued.</p> <p>D) Since the audit, Council has sent out infringements to all unregistered pools requiring registration within 30 days. If pools remain unregistered past the deadline Council will manually register the pools on the owners behalf and invoice the applicable fees. If these newly registered pools have a certificate of barrier compliance due or overdue Council will need to consider if a different approach is taken as opposed to other overdue certificates of barrier compliance (e.g. whether these go straight to Building Enforcement). Council will document this process within its finalised Building Services- Pool Register Procedure.</p> <p>E) How to determine a pool or spa's construction date is already documented in the procedure.</p> <p>F) Record keeping requirements are in the procedure- file note and recording keeping requirements.</p>	
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27 January 2023

Mr Andrew Greaves  
Auditor – General  
Victorian Auditor – General's Office  
Level 31, 35 Collins Street  
MELBOURNE VIC 3000

Dear Mr Greaves

**Re: Performance audit - Regulating private pool and spa safety**

Melton City Council thanks the Victorian Auditor-General's Office (VAGO) for providing the Proposed Performance Audit Report - *Regulating private pool and spa safety* and for offering Council the opportunity to provide comment to be included in the report.

The learning and recommendations of the audit will ensure that Council is able to deliver a best practice private pool and spa safety program to meet the objectives of the Regulations. I am pleased to submit Melton City Council's action plan to address recommendations from the *Regulating private pool and spa safety audit*, as attached.

I wish to thank the Audit team for their collaborative and constructive approach and for the opportunity to provide comment on the performance audit.

Yours sincerely

  
**Roslyn Wai**  
Chief Executive Officer

A thriving community  
where everyone belongs

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**Melton City Council – Action plan to address recommendations from  
*Regulating private pool and spa safety***

VAGO recommendation	Council response	Action	Completion date
Internally report on the number of pools and spas with outstanding certificates of compliance and apply a risk-based approach to determine actions and timeframes to address them.	Accepted	Council has commenced developing an automated report which provides a list of pool and spa with non-compliant certificates.  Council will modify its draft procedure to ensure it references the Building Control Intervention Policy and timeframes for enforcement action.	1 June 2023  1 March 2023
Internally report on the number of unregistered pools and spas and determine actions and timeframes to address them	Accepted	Council has engaged additional staff to cross reference compliance dates. As of the 9 January 2023, all pools and spas with a due date prior to 1 June 2023 have been cross referenced with Council records to ensure compliance dates are correct. Cross referencing of the remaining pools and spas due for the 1 June 2024 has commenced and will be completed by 1 January 2024.	1 January 2024
Address their registration systems' limitations by: <ul style="list-style-type: none"> <li>improving how they monitor and report on outstanding registrations and certifications</li> <li>reducing the need for staff to manually process registrations and reminder letters</li> <li>improving how they link to information in other council systems, such as building permits.</li> </ul>	Accepted	Council has commenced developing an automated report which provides a list of pool and spa with non-compliant certificates. These reports will be reviewed by Department Manager to ensure outstanding registrations and certificates are actioned.  Council will engage with current software	1 July 2023

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		provider to improve cross referencing with other systems to establish one source of truth for building permit data.	
<p>Develop a procedure that:</p> <ul style="list-style-type: none"> <li>includes a risk-based approach to address certificates of noncompliance, including timeframes and actions for different risk categories</li> <li>requires staff to document decisions about responding to noncompliant pools and spas</li> <li>states when and how councils will remind owners to submit a certificate of compliance</li> <li>states when and how councils will follow up with owners of unregistered pools and spas</li> <li>includes information staff must consider when determining a pool or spa's construction date</li> <li>requires councils to maintain related records for all pools and spas.</li> </ul>	Accepted	<p>Council will modify its draft procedure to ensure it references the Building Control Intervention Policy and timeframes for enforcement action.</p> <p>All certificates for 2022 have been assessed by staff. Enforcement action will commence for any resident that has not submitted a certificate.</p>	<p>1 March 2023</p> <p>1 February 2023</p>

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Ref: Direct contact David Simon (03) 5950 1641  
Your Ref: 3475723



7 February 2023

Mr Andrew Greaves  
Auditor-General  
Victorian Auditor-General's Office

Sent via email: [REDACTED]  
Cc: [REDACTED]  
Cc: [REDACTED]  
Cc: [REDACTED]

Dear Sir,

**PROPOSED PERFORMANCE AUDIT REPORT: REGULATING PRIVATE POOL AND SPA SAFETY**

I refer to your letter dated 16 January 2023 regarding the Regulating private pool and spa safety audit report. Mornington Peninsula Shire Council (MPSC) welcomes the audit and thanks the Victorian Auditor-General's Officer (VAGO) for consulting with MPSC throughout the process and providing the opportunity to address the initial findings.

MPSC notes the four recommendations made to it with respect to an Action Plan. MPSC confirms that it either fully or partially accepts all recommendations and has included deadlines for investigating and implementing all of those, noting that MPSC is moving towards implementation of a new IT system, which may provide for additional automation or functionality they may not currently exist. I have attached the proposed Action Plan as requested.

MPSC acknowledges that the VAGO's staff will follow up periodically regarding progress against these recommendations and will have the matter listed as part of its internal Audit and Risk Committee matters.

MPSC acknowledges the importance of regulating private pool and spa safety to the community's safety and is committed to implementing the industry best practice standards for monitoring and enforcement of pool and spa safety.

Should you wish to discuss the matter please contact David Simon – Manager Development Services on 0481 097 261.

Yours faithfully

[REDACTED]

**John Baker**  
Chief Executive Officer

Attachment

**Contact the Mornington Peninsula Shire**

☎ 1300 850 600  
🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)  
✉ [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
90 Besgrove Street, Rosebud VIC 3939  
ABN: 53 159 890 143



**Mornington Peninsula Shire Council – Action plan to address recommendations from  
*Regulating private pool and spa safety***

VAGO recommendation	Council response	Action	Completion date
Internally report on the number of pools and spas with outstanding certificates of compliance and apply a risk-based approach to determine actions and timeframes to address them.	<b>Accepted</b>	Mornington Council will as a priority process map a new procedure that regularly alerts the staff to any outstanding compliance properties and have these properties undergo a risk assessment to determine the appropriate action for each case along with the implementation of timeframes against each action.	31 July 2023
Internally report on the number of unregistered pools and spas and determine actions and timeframes to address them	<b>Accepted</b>	Mornington Council will introduce a monthly report in addition to the existing swimming pool register that focuses on the unregistered pools and spas. New action process mapping to be created alongside introducing the infringement/enforcement process and appropriate time frames to be implemented against these action steps. Tech 1 will require new events to ensure the process is consistent and easily tracked when reporting on the status of each affected property address.	31 August 2023

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**Contact the Mornington Peninsula Shire**

☎ 1300 850 600  
 🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)  
 📧 [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
 90 Besgrove Street, Rosebud VIC 3939  
 ABN: 53 159 890 143



<p>Address their registration systems' limitations by:</p> <ul style="list-style-type: none"> <li>• improving how they monitor and report on outstanding registrations and certifications</li> <li>• reducing the need for staff to manually process registrations and reminder letters</li> <li>• improving how they link to information in other council systems, such as building permits.</li> </ul>	<p><b>Partially Accepted</b></p>	<p>System review to be undertaken across all current systems utilised for the swimming pool process to eliminate the manual processing and double handling of staff responsibilities and to create more online and automated processes.</p> <p>The linking of building permits against the requirements of the swimming pool regulations to any one property address are already in place by automatically populating the swimming pool application wizard in Tech 1 when a Building Permit is entered that includes within the building permit works, a swimming pool and or spa.</p>	<p>31 December 2023</p>
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**Contact the Mornington Peninsula Shire**

☎ 1300 850 600  
 🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)  
 📧 [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
 90 Besgrove Street, Rosebud VIC 3939  
 ABN: 53 159 890 143



<p>Develop a procedure that:</p> <ul style="list-style-type: none"> <li>• includes a risk-based approach to address certificates of noncompliance, including timeframes and actions for different risk categories</li> <li>• requires staff to document decisions about responding to noncompliant pools and spas</li> <li>• states when and how councils will remind owners to submit a certificate of compliance</li> <li>• states when and how councils will follow up with owners of unregistered pools and spas</li> <li>• includes information staff must consider when determining a pool or spa's construction date</li> <li>• requires councils to maintain related records for all pools and spas.</li> </ul>	<p><b>Accepted</b></p>	<p>Mornington Council acknowledge all matters raised and are confident that during the overall process improvement that all items will be addressed and implemented.</p>	<p>31 August 2023</p>
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**Contact the Mornington Peninsula Shire**

☎ 1300 850 600

🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)

✉ [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
90 Besgrove Street, Rosebud VIC 3939  
ABN: 53 159 890 143



Our Ref: D23/21077  
Your Ref: 34757 23  
Contact: Fiona Whitehand Ph 52610590

6 February 2023

Mr Andrew Greaves  
Auditor – General  
Victorian Auditor General's Office  
Level 31 – 35 Collins Street,  
Melbourne 3000

Dear Andrew

**Response Proposed Performance Audit Report: Regulating private pool and spa safety**

Surf Coast Shire Council thanks the Victorian Auditor General's Office (VAGO) for providing the Proposed Audit Report regulating private pool and spa safety.

The report and proposed recommendations will ensure that private pools and spas are registered along with a framework for reporting, monitoring registrations and identifying and responding to non-compliance.

Surf Coast Shire Council has considered the report and recommendations within current resourcing given Council's financial constraints. I am pleased to provide a response for the Proposed Performance Audit Report and recommendations as attached.

Council thanks the Audit Team for their collaborative and consultative approach to the audit and for the opportunity to provide a response to the report and recommendations.

Yours faithfully



**Robyn Seymour**  
Chief Executive Officer

1 Merrijig Drive (PO Box 350) Torquay VIC 3228  
p. 03 5261 0600 e. [info@surfcoast.vic.gov.au](mailto:info@surfcoast.vic.gov.au)

[www.surfcoast.vic.gov.au](http://www.surfcoast.vic.gov.au)

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**Surf Coast Shire Council – Action plan to address recommendations from  
*Regulating private pool and spa safety***

VAGO recommendation	Council response	Action	Completion date
Internally report on the number of pools and spas with outstanding certificates of compliance and apply a risk-based approach to determine actions and timeframes to address them.	<p>Accepted</p> <p>Surf Coast Shire will create and implement reporting regime for outstanding pools and spas.</p> <p>A risk matrix can be developed and implemented assessing the level of risk of outstanding certificates of compliance.</p> <p>Processes to action non-compliance can be developed, however, the quantity of outstanding compliance certificates is unknown at this point in time due to Council programs unable to integrate, therefore requiring manual processing.</p> <p>Currently, Surf Coast Shire is not confident that staffing resources are available to implement this program and manage the Pool Registration Process.</p> <p>Surf Coast Shire will continue to develop and implement new IT systems and processes aimed at improving processes and timeframes.</p>	<p>Surf Coast Shire Council will continue developing reporting systems to internally report on the number of pools and spas with outstanding certificates by the 30 June 2023.</p> <p>Surf Coast shire Council will develop and implement a risk rating matrix and apply it to outstanding certificates of non-compliance by 30 June 2023.</p> <p>Surf Coast Shire will confirm the extent of non – compliance and assess the level or risk and resource to address this. Once this is known Council can establish response timeframes.</p>	30 June 2023

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Internally report on the number of unregistered pools and spas and determine actions and timeframes to address them	<p>Accepted</p> <p>Surf Coast Shire is using a government funded position to work on unregistered pools/investigation list. This has only been for the last 4-6 weeks (one day a week). At this stage we are unable to determine exact number of unregistered pools/spas until list is completed and the existence of pools/spas confirmed.</p> <p>The above mentioned position is not a sole resource for this purpose and the funding for the position has a short timeframe. This will not be an ongoing position.</p>	<p>Surf Coast Shire</p> <p>Council will continue to develop reporting systems to internally report on the number of pools and spas with outstanding certificates by the end of 30 June 2023.</p> <p>Surf Coast shire Council will develop and implement a risk rating matrix and apply it to outstanding certificates of non-compliance by end 30 June 2023.</p> <p>Surf Coast Shire will confirm the extent un-registered pools/spas and assess the level or risk and respond according to the risk matrix time frame.</p>	30 June 2023
<p>Address their registration systems' limitations by:</p> <ul style="list-style-type: none"> <li>improving how they monitor and report on outstanding registrations and certifications</li> <li>reducing the need for staff to manually process registrations and reminder letters</li> <li>improving how they link to information in other council systems, such as building permits.</li> </ul>	<p>Partial Accepted</p> <p>Surf Coast Shire is committed to improving and enhancing the monitoring of outstanding registrations and certifications. Designing and implementing systems will include setting time frames to assess reports and levels of non-compliance.</p>	<p>Surf Coast shire will continue to enhance and develop monitoring systems to monitor and review outstanding registrations and certificates.</p> <p>Council will undertake an assessment of current IT</p>	30 June 2023

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	<p>The IT advice received indicates there is no capacity for the current system to send letters /reminders due to system limitations and the capabilities of the current system are unable to be enhanced.</p> <p>Further upgrades are not budgeted for at this point in time and would be costly requiring a total system overhaul.</p> <p>Manual handling will still be required until such time as a new IT system can be implemented or alternatively, exploring other existing platform to reduce manual handling.</p> <p>Surf Coast Shire can confirm that building permits links have been created and are now linked to Council's Pool Register.</p>	<p>platforms to establish if they have capability to reduced manual processes.</p> <p>Councils' Digital Transformation team is assessing the current systems for potential upgrading or replacing.</p>	
<p>Develop a procedure that:</p> <ul style="list-style-type: none"> <li>includes a risk-based approach to address certificates of noncompliance, including timeframes and actions for different risk categories</li> <li>requires staff to document decisions about responding to noncompliant pools and spas</li> <li>states when and how councils will remind owners to submit a certificate of compliance</li> <li>states when and how councils will follow up with owners of unregistered pools and spas</li> </ul>	<p>Accepted</p> <p>Surf Coast Shire will continue to develop a procedure that responds to the listed six points.</p> <p>Council wishes to advise that the extent of non-compliance as mentioned in this response is not known however, each identified</p>	<p>Surf Coast Shire will develop and implement procedures to address the recommendations.</p>	30 June 2023

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<ul style="list-style-type: none"><li>includes information staff must consider when determining a pool or spa's construction date</li><li>requires councils to maintain related records for all pools and spas.</li></ul>	noncompliance will be assessed against the risk matrix and responded to according to set time frames.		
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# APPENDIX B

## Abbreviations, acronyms and glossary

**Abbreviations** We use the following abbreviations in this report:

### Abbreviation

Bendigo	City of Greater Bendigo
compliance certificate	certificate of pool and spa barrier compliance
Frankston	Frankston City Council
Melton	Melton City Council
Mornington	Mornington Peninsula Shire Council
noncompliance certificate	certificate of pool and spa barrier non-compliance
Surf Coast	Surf Coast Shire Council

### Glossary

This glossary includes an explanation of the types of engagements we perform:

### Term

Reasonable assurance	We achieve reasonable assurance by obtaining and verifying direct evidence from a variety of internal and external sources about an agency's performance. This enables us to express an opinion or draw a conclusion against an audit objective with a high level of assurance. We call these audit engagements.
Limited assurance	We obtain less assurance when we rely primarily on an agency's representations and other evidence generated by that agency. However, we aim to have enough confidence in our conclusion for it to be meaningful. We call these types of engagements assurance reviews and typically express our opinions in negative terms. For example, that nothing has come to our attention to indicate there is a problem.  See our <a href="#">assurance services fact sheet</a> for more information.

# APPENDIX C

## Audit scope and method

### Scope of this audit

**Who we examined**

We examined the following councils:

Councils	Their key responsibilities
Bendigo	• Engage and educate their local communities about pool safety barrier regulations
Frankston	• Create and maintain a pool register
Melton	• Inform owners when they need to register and certify their pools
Mornington	• Ensure owners meet their safety obligations for pools
Surf Coast	

**Our audit objective**

Are councils effectively implementing private pool and spa safety barrier regulations?

**What we examined**

We examined councils' progress in:

- maintaining their registers
- ensuring owners meet their obligations to register and certify pools
- developing relevant internal processes and procedures.

## Conducting this audit

### Assessing performance

To form our conclusion against our objective we used the used the following lines of inquiry and associated evaluation criteria:

Line of inquiry	Criteria
1. Do councils ensure that registers for private pools and spas are complete and accurate?	<div>1.1 Councils ensure that owners register their private pools and spas in line with the <i>Building Act 1993</i> and the <i>Building Regulations 2018</i>.</div> <div>1.2 Councils ensure that information recorded on their registers is accurate.</div>
2. Do councils ensure that private pools and spas meet applicable barrier standards?	2.1 Councils take appropriate compliance and enforcement actions to ensure that private pools and spas meet applicable barrier standards.

### Our methods

As part of the audit we:

- reviewed council procedures
- reviewed registers for private pools
- reviewed records for a selection of pools
- interviewed key staff
- surveyed Victoria's 79 councils.

### Our survey

In September 2022 we surveyed Victoria's 79 councils to collect data on their progress in implementing the regulations. We received responses from all 79 councils.

We used the survey results to:

- assess the audited councils' performance against other Victorian councils
- collect contextual information around the:
  - number of registered pools in Victoria
  - estimated number of pools in Victoria
- provide all councils with an individual report that benchmarked their results against councils across the state.

### Compliance

We conducted our audit in accordance with the *Audit Act 1994* and ASAE 3500 *Performance Engagements* to obtain reasonable assurance to provide a basis for our conclusion.

We also provided a copy of the report to the Department of Premier and Cabinet and the Department of Treasury and Finance.

We complied with the independence and other relevant ethical requirements related to assurance engagements.

### Cost and time

The full cost of the audit and preparation of this report was \$405,000.

The duration of the audit was 7 months from initiation to tabling.

# Auditor-General's reports tabled during 2022–23

Report title	Tabled
<i>Results of 2021 Audits: Technical and Further Education Institutes</i> (2022–23: 1)	July 2022
<i>Results of 2021 Audits: Universities</i> (2022–23: 2)	July 2022
<i>Follow-up of Protecting Victoria's Coastal Assets</i> (2022–23: 3)	August 2022
<i>The Effectiveness of Victoria Police's Staff Allocation</i> (2022–23: 4)	September 2022
<i>Quality of Major Transport Infrastructure Project Business Cases</i> (2022–23: 5)	September 2022
<i>Major Projects Performance Reporting 2022</i> (2022–23: 6)	September 2022
<i>Quality of Child Protection Data</i> (2022–23: 7)	September 2022
<i>Follow-up of Maintaining the Mental Health of Child Protection Practitioners</i> (2022–23: 8)	September 2022
<i>Regulating Victoria's Native Forests</i> (2022–23: 9)	October 2022
<i>Victoria's Alcohol and Other Drug Treatment Data</i> (2022–23: 10)	October 2022
<i>Auditor-General's Report on the Annual Financial Report of the State of Victoria: 2021–22</i> (2022–23: 11)	October 2022
<i>Regulating Private Pool and Spa Safety</i> (2022–23: 12)	February 2023
<i>Results of 2021–22 Audits: Local Government</i> (2022–23: 13)	February 2023

All reports are available for download in PDF and HTML format on our website at <https://www.audit.vic.gov.au>

# Our role and contact details

## The Auditor-General's role

For information about the Auditor-General's role and VAGO's work, please see our online fact sheet [About VAGO](#).

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## Our assurance services

Our online fact sheet '[Our assurance services](#)' details the nature and levels of assurance that we provide to Parliament and public sector agencies through our work program.

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## Contact details

Victorian Auditor-General's Office  
Level 31, 35 Collins Street  
Melbourne Vic 3000  
AUSTRALIA  
  
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