



Government of **Western Australia**  
Department of **Health**

# Consultation Summary Report

**For the Discussion Paper – Management of public  
health risks associated with aquatic facilities in  
Western Australia**

March 2020



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## Summary

In September 2018 the discussion paper '*Managing public health risks in aquatic facilities in WA*' was released by the Department of Health (DOH) for a thirteen-week comment period. This report summarises the preferred regulatory option, the respondent feedback received and the intended next steps of the DOH. It is not possible in a summary report to represent every view, so this report attempts to capture the main issues and themes raised and the key points of contention.

The discussion paper presented the following four options for potential future risk management:

- **Option A:** Retain status quo as far as practicable by replacing the current regulations with a same or similar regulations made under the *Public Health Act 2016* (Public Health Act).
- **Option B:** Deregulate the aquatic facility industry. That is, repeal the existing regulations without replacement and allow the industry to self-regulate. The DOH could provide guidance documents for aquatic facilities to help minimise the public health risks which would complement the general public health duty provisions of the Public Health Act.
- **Option C:** Develop new regulations and adopt an amended Code of Practice in accordance with Public Health Act. Proposed changes to the regulations and Aquatic Facilities COP were then discussed in further detail.
- **Option D:** None of the above.

The purpose of this consultation was to inform the implementation of the Public Health Act and associated review of existing regulations under the *Health (Miscellaneous Provisions) Act 1911* (Health MP Act), in particular the *Health (Aquatic Facilities) Regulations 2007* (Aquatic Facilities Regulations). The DOH sought to gain a better understanding of the potential impacts on and opinions of industry, local government, other government agencies and members of the public associated with the management of public health risks in aquatic facilities.

The DOH received a total of 68 responses during the comment period. There was strong support (78% of respondents) for the ongoing management of aquatic facilities under the Public Health Act and to update the existing Aquatic Facilities Code of Practice (COP). There were varying levels of support for each of the four proposed Options and the regulation content. The DOH has analysed the responses and proposed their adoption or modification.



## Methodology

The consultation was undertaken to gain a better understanding of the perceptions and opinion of all stakeholders on the management of public health risks associated with aquatic facilities.

A discussion paper was released for consultation to discuss the different options for the new regulatory framework including the DOH preferred option of making new regulations under the Public Health Act. Feedback was sought on the key proposals that will underpin the proposed new regulations and the amendments to the existing Aquatic Facilities COP.

Stakeholders were provided a link to the DOH's corporate website [www.health.wa.gov.au](http://www.health.wa.gov.au) directing the respondent to provide feedback by one of three methods:

1. completing the questions on the online Citizen Space survey;
2. submitting a personalised response by emailing the [publichealthact@health.wa.gov.au](mailto:publichealthact@health.wa.gov.au) email address; and
3. writing a letter addressed to the Environmental Health Directorate.

It was important that stakeholders who may be impacted by the proposed changes were aware of the consultation being undertaken. The following methods were used to contact the stakeholders:

- all local governments in WA were contacted by both mail and email
- 263 letters sent to known stakeholders including state government agencies, accommodation owners with a pool, industry representatives and commercial pool owners
- 938 emails sent to known stakeholders including dive schools, aged care facilities, construction companies, accommodation agencies and educational bodies
- notification was sent to all persons who subscribe to the Environmental Health Directorate’s email updates
- information was published in the Environmental Health Directorate’s newsletter
- information was published on the DOH’s [website](#).

The following stakeholders were targeted in communications designed to encourage a submission. A combination of emails and letters were posted to the following stakeholders and stakeholder groups.

|   |
|---|
| <b>Local Government</b>   |
| 138 local governments in WA   |
| <b>Industry groups and associations</b>   |
| Australian Physiotherapy Association WA   |
| Building commission WA  |
| Caravan Industry Association WA   |
| Environmental Health Australia WA   |
| Leisure Institute of Western Australia Aquatics   |
| Pool and chemical testing industry  |
| Retirement Village Association WA   |
| Royal Life Saving and Leisure Institute of Western Australia  |
| School associations   |
| Swimming Pool and Spa Association   |
| Swimming WA   |
| Western Australian Local Government Association WA  |
| Worksafe WA   |
| <b>State governments</b>  |
| Department of Local Government, Sport and Cultural Industries   |
| Department of Mines, Industry Regulation and Safety   |
| Small Business Development Corporation  |
| <b>Companies</b>  |
| Accommodation (Hotels, Motels, Bed and Breakfasts, Caravan parks, Backpackers, Airbnb, Stayz, Holiday accommodation, serviced apartments) |
| Aged care services  |
| Aquatic facility owners and operators   |
| Commercial pool industry  |
| Construction (BCG, Clough, Mulitplex, PACT, Vespoli, Austpeak, Howell Builders)   |

|  |
|--|
| Flotation tanks                                    |
| Gymnasiums and Health Clubs                        |
| Recreation Camps                                   |
| Residential colleges and universities              |
| Home swim schools                                  |
| Hydrotherapy and Physiotherapy pools               |
| Pool chemical testing industry                     |
| Sports Clubs and training facilities               |
| Private Hospitals                                  |
| Scuba diving academies                             |
| Strata title management                            |
| <b>Other</b>                                       |
| Subscribers to the Environmental Health Listserver |
| The general public (including holiday home owners) |

## Consultation findings

A total of 68 responses were received from various stakeholder groups.

| Stakeholder      | Responses |
|------------------|-----------|
| Local government | 42        |
| State government | 1         |
| Industry         | 13        |
| Public           | 3         |
| Other            | 7         |
| Not disclosed    | 2         |
| <b>Total</b>     | <b>68</b> |

Based on the number of targeted stakeholders the overall response rate was around 6%. However, the response rate from local governments was 30% which is considered high for an external online consultation (the average response rate is usually 10-15%).

The number of responses received from industry representatives was sufficient to provide a cross-section of the different views and preferences.

The majority (72%) of the respondents have reported that they enforce the Aquatic Facilities Regulations. Additionally 94% of the respondents manage or inspect aquatic facilities indicating they have working knowledge of the current regulatory framework and the practicalities of its implementation.

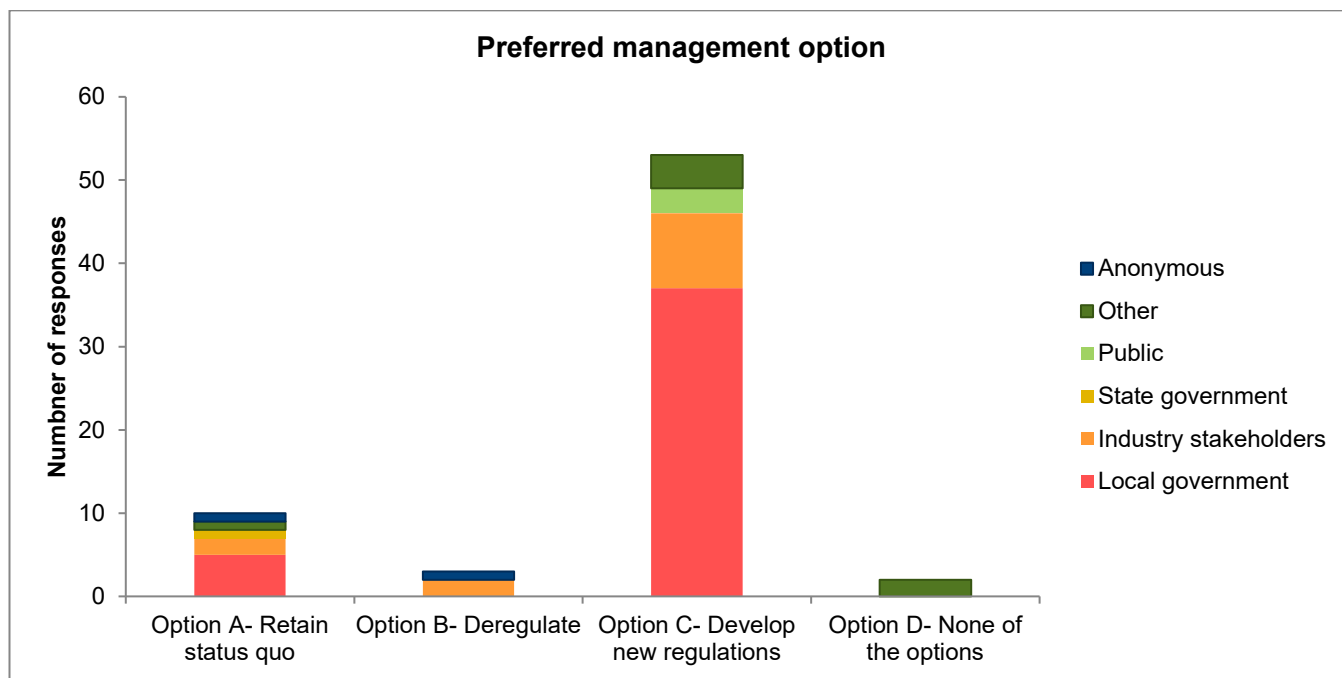
### Responses to proposed options

Respondents were asked to nominate their preferred management option via the online CitizenSpace survey. 93% of respondents were in support of the management of the public health risks associated with aquatic facilities by way of regulation made under the Public Health Act. Of these, 78% were in support of Option C to develop new regulations in accordance with the Public Health Act and to update the existing Aquatic Facilities COP.

In comparison, 15% of respondents were in support of maintaining the status quo by replacing the current regulations with similar regulations made under the Public Health Act as far as practicable.

A small percentage of respondents (4%) felt that the aquatic facilities industry should be deregulated, while 3% of respondents did not support any of the suggested management options.

When comparing within the individual stakeholder groups, 88% of the local government respondents opted to make new regulations under the Public Health Act while the remaining 12% opted to maintain the status quo. In the industry stakeholder group, 69% of the respondents opted to make new regulations under the Public Health Act. The remaining responses were split equally between preferring to maintain status quo and to deregulate.



### Option A: Retain status quo

The majority of the respondents that were in support of the option to maintain status quo felt that the current regulatory framework is adequate in managing the public health risks associated with aquatic facilities. The prevailing reason provided by the respondents was that they felt that the current management system is working well and that the industry is familiar with the existing processes and requirements. Consequently, some of the respondents were concerned that any changes in the regulatory framework will result in an unnecessary increase in regulatory burden that will cause an increase in the cost associated with the operation of aquatic facilities.

One of the advantages of the current Aquatic Facilities Regulations that was mentioned was that the initial approval process undertaken by the DOH eliminates any conflict of interest when the aquatic facilities is owned by the local government and this provision should be carried over into the new regulations. It should be noted however, that local governments currently enforce the regulations for the ongoing operation of their own aquatic facilities.

### Option B: Deregulate

There were two main reasons provided by respondents that were in support of repealing the existing regulations without replacement and allowing the industry to self-regulate. Two respondents cited the fact that there have been no issues in the management of their aquatic facilities and therefore adequate self-management already existed and one respondent advised that they were a guest house owner and their pool was predominantly for private use.

## **Option C: Develop new regulations**

There were a few key reasons provided by respondents in support of making new regulations under the Public Health Act. The most common reason provided was that the public health risks associated with aquatic facilities can only be effectively managed through formal regulation which mandates the use of mitigation measures. It was also mentioned that the new regulations will be better aligned with the risk-based approach of the Public Health Act.

One of the key strengths of the current Aquatic Facilities Regulations that has been requested by respondents to be carried over to the new regulations is the adoption of a Code of Practice that sets out the comprehensive technical requirements for the construction, operation and management of aquatic facilities. The current Aquatic Facilities COP has been effective in providing clarity and consistency to regulatory agencies, industry and operators on the requirements that need to be complied with. Respondents have also mentioned that a Code of Practice is an effective communication tool where all the necessary information is consolidated into a single document that is practical and easy to understand. The low drowning rates in WA demonstrate the current level of regulation is effective in reducing public health risk.

Respondents suggested the following improvements to the current Aquatic Facilities Regulations:

- reduce overlap with other existing regulations
- improve / simplify processes prescribed in the current regulations to make it more relevant, easier to administer and consistently enforced by local governments
- apportion the regulatory requirements to the risk of the aquatic facility
- incorporate provisions to keep up with changes in technology, emerging trends in design and types of facilities.

Amendments to the Aquatic Facilities COPs that were raised in the respondent's responses will be further discussed in Proposal 3 – Adopt a Code of Practice below.

## **Responses suggesting alternative options**

Of the two respondents who did not support the proposed options provided in the discussion paper, one suggested that the construction requirements should be retained but that ongoing management and operation should not be regulated in order to avoid ongoing costs. The other respondent stated a preference for a fee-based model using private consultants.

## **Conclusion:**

*The responses from the consultation support the DOH recommendation that 'Option C: Provide updated regulations under the Public Health Act 2016' is adopted.*

*Aquatic facilities pose a significant public health risk. These risks can be categorised into the following key areas:*

- *built environment (slips, trips, abrasions and falls)*
- *drowning*
- *water quality (microbial and chemical)*
- *electrocution*
- *chemical exposure and ventilation*

*The CHO has a responsibility to the people of WA to ensure appropriate controls are in place to protect the community from risks related to aquatic facilities.*



## Responses to Option C proposed regulatory content

In the discussion paper, “Management of public health risks associated with aquatic facilities in Western Australia”, the DOH presented seven proposals on the possible amendments to the current regulations that can be made, should new regulations be made under the Public Health Act (Option C).



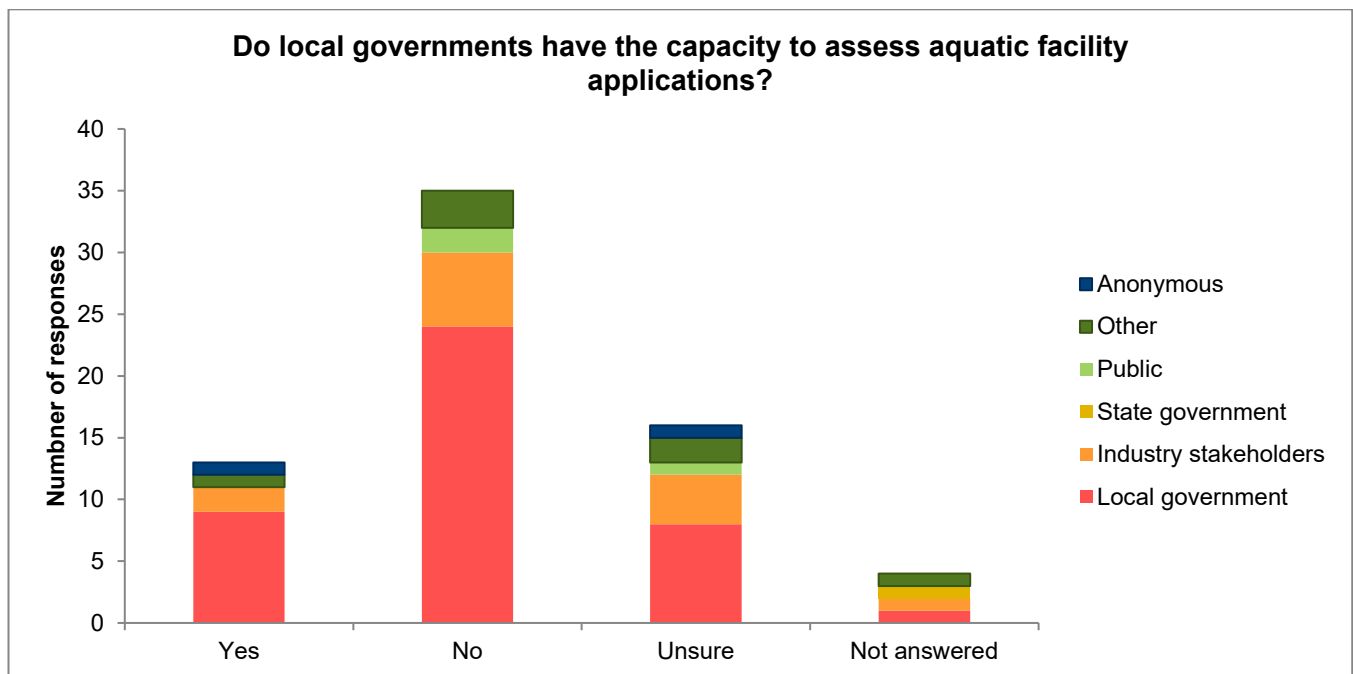
Feedback from the respondents were sought to determine the feasibility and practicality of the proposed amendments.

### Proposal 1 – Devolving the administration role to local government enforcement agencies is not adopted.

The first proposal presented in the discussion paper was to devolve the administration role to local government agencies. Under the current regulations, the Chief Health Officer (CHO) undertakes the following administrative functions:

1. assess applications to construct, alter and operate an aquatic facility
2. issue approvals for aquatic facilities to be constructed
3. undertake inspections to ensure that newly built / altered facilities are compliant
4. issuance of the necessary approvals and permits for facility to be operated.

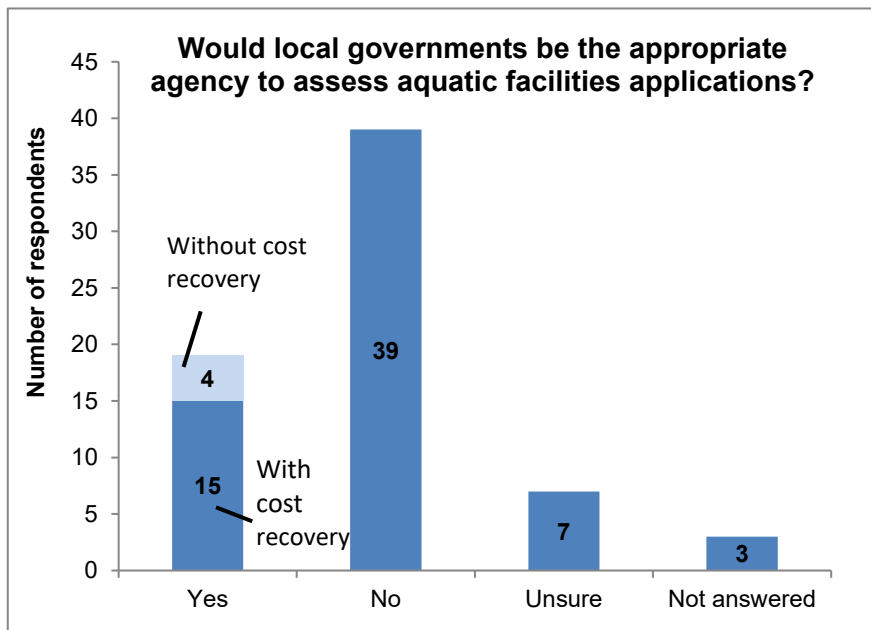
When asked if local governments have the capacity to undertake these functions, the majority of the respondents (51%) were of the opinion that local governments do not have the capacity to do so. In contrast, 19% of respondents felt that local governments have the capacity to undertake the functions while 24% were unsure.



When comparing within the stakeholder groups, 57% (24) of local government respondents felt that local governments do not have the capacity to undertake the functions, while 21% (9) felt that local governments do and 19% (8) were unsure. Similarly, the majority of the industry representative respondents (46%) felt that local government do not have the capacity to undertake the functions, while 31% were unsure and only 15% felt that local governments have the capacity to undertake the functions.

This response corresponds closely to the perception of respondents in regard to local governments being the appropriate agency to assess aquatic facility applications. 57% (39) of respondents felt that local government is not the appropriate agency to assess aquatic facility applications.

Of the 28% of respondents who felt that local government is the appropriate agency, around three quarters (15/19) of respondents within the group felt that it is achievable with a cost recovery option while the remaining felt that cost recovery is not required.



### Local government resourcing

The most common reason given for why local governments do not have capacity to assess aquatic facility applications was that local government currently lacks the technical expertise. The cumulative costs associated with training and maintaining staff expertise to enable every local government to independently assess aquatic facility applications was perceived to be significantly higher when compared to this function being centralised and undertaken by the DOH. Furthermore, the number of aquatic facility applications received by local governments in any given year may not be sufficient to retain the skills of the processing officer current and up-to-date. Local governments with high staff turnover could also have difficulty with properly resourcing this administrative function.

A perceived benefit associated with a centralised approving authority is that there will be consistency in the implementation and enforcement of the regulations for aquatic facilities. Concerns were raised that the DOH will not be able to effectively play the role of the system manager should the administrative functions be devolved to local government as officers within the DOH will de-skill and not keep abreast with the changes and needs of the aquatic facilities industry. By keeping the regulatory function with DOH, the approving authority will be able to retain the expertise required to assess the technical aspects of aquatic facilities of varying complexities and keep up with the changes in the industry.



In addition to the lack of expertise in aquatic facility assessment, most local governments stated that they are lacking in resources to take on additional regulatory functions, especially in regional and smaller local governments. In contrast, some local governments stated that they have the technical expertise to undertake the administrative function, but their resources are at capacity and not able to take on any additional regulatory functions. Even with a cost recovery option, the recovered costs do not necessarily translate to additional staff being employed to undertake the regulatory function.

A conflict of interest also exists should the aquatic facility that is to be approved belongs to the local government. Though unlikely, the authorised officer can be placed in a situation where an unbiased independent assessment of the application cannot be achieved. For this reason, it was suggested that all local government owned and operated facilities be approved by the DOH.

It was also mentioned that the approval of aquatic facilities cannot be fully integrated into the buildings approval process as there are several aspects of aquatic facilities that not covered by the Building Code.

### **Aquatic facility assessment**

The local governments that supported the proposal to devolve the regulatory function of approving aquatic facilities to the local government felt that with sufficient training they would be able to take on the regulatory function. A few of the larger local governments in the metropolitan region stated that they already have the resources and technical expertise to undertake the regulatory function.

Despite the lack of support from most regional local governments to devolve the regulatory function to local government, one regional local government supported the proposal on the basis that they are already conducting the final inspections and routine audits for aquatic facilities in their district. However, it was suggested that the assessment of larger and complex aquatic facilities be referred to the DOH.

As local government is the first point of contact for building approvals some local governments felt that the aquatic facilities approval process can be streamlined with the building approval process as a building approval is currently required for all aquatic facility construction. It was also suggested that the feasibility of using private certifiers, in line with the building approval process, be considered.

Some local government respondents stated that they are confident in assessing smaller aquatic facilities which are generally lower in risk but would prefer larger aquatic facilities (such as Group 1 facilities) to be assessed by the DOH. This will prevent any conflict of interest and also ensure high risk and complex facilities are assessed by the DOH, who are better suited for the position.

### **DOH Recommendation:**

*It is acknowledged that most local governments do not have the capacity to take on the full administration role associated with approving and managing aquatic facilities. Based on the feedback received it is proposed that the role of assessment and approval of the construction, alteration or extension of aquatic facilities is retained with the DOH. The DOH will charge an administration fee for assessing the submitted documents and to issue the Certificate of Compliance once an aquatic facility achieves compliance with all requirements.*

*The DOH will be responsible for:*

- *Assessing construction, alteration or extension of all aquatic facilities and issuing a Certificate of Compliance for construction, alteration or extension.*
- *Inspecting metropolitan aquatic facilities not 'within a LG district', with assistance from local government in most regional areas or as otherwise required, in conducting inspections and water sampling to ensure ongoing compliance.*
- *Auditing local government registration processes and records, responses to non-compliance and application of enforcement actions.*

*The operation of an aquatic facility will be a 'registrable activity' and must be registered by the appropriate enforcement agency:*

- *Local government (for all aquatic facilities, including Crown owned, within the LG district)*

- *Department of Health (for any aquatic facilities not within a LG district)*

As detailed in Proposal 4, the DOH proposes to exclude residential-only facilities from Group 4 classification. This will greatly reduce the registration burden on enforcement agencies.

An arrangement can be sought between the DOH and LGs to ensure ongoing monitoring and compliance can be achieved in regional or remote areas where it may not be practical for DOH officers to attend on a regular basis.

Registration periods are proposed to be 3 yearly with a review of this model's efficacy after two years of implementation. The enforcement agency may charge a fee for processing the registration documents, thereby validating the registration for the nominated time period.

Enforcement agency responsibilities include:

- *Obtaining operational information as a requirement for registration – Operator details, First aid, supervision, facility manual, valid Cert of Compliance;*
- *Issuing the Permit to Operate as a result of the registration process, and may charge a registration fee;*
- *Maintaining a register of aquatic facilities, to be made publicly available during business hours without charge;*
- *Ongoing facility inspections, assessment of water sampling results, responding to non-compliance;*
- *Issuing improvement notices, infringement notices, enforcement orders, and prosecutions as discretionary enforcement actions. Some enforcement actions will require approval by the CHO to be applied.*

Inspection frequency is intended to be variable based on good compliance history and suitable risk management practices, or lack thereof.

## **Proposal 2 – Prescribe offences for which an infringement notice may be issued**

As infringement notices can only be served when an offence is prescribed in the regulations, Respondents' feedback was sought to ascertain the offences that should be captured.

The majority of the respondents (66%) were of the opinion that a list of offences should be prescribed in the regulations. Only 9% of respondents disagreed with the proposal while 18% were unsure.

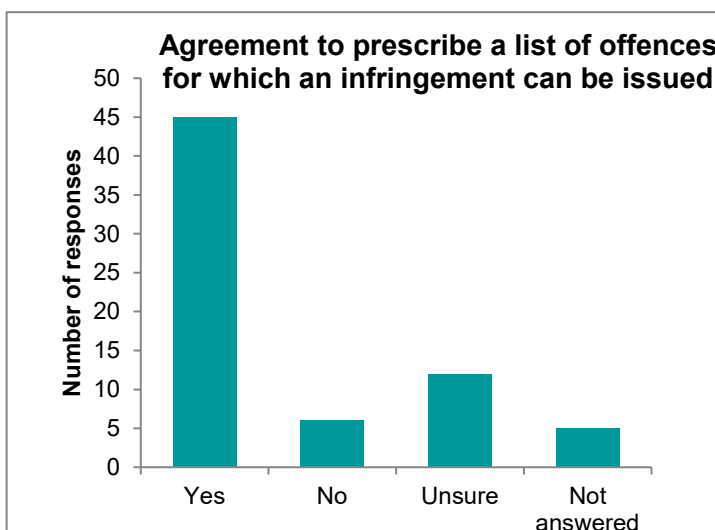
The type of offences that respondents believed that infringement notices should be issued for can be broadly categorised into the following areas:

### **Water quality**

- failure to monitor water quality
- continuous routine compliance monitoring failures
- failure to maintain adequate disinfection and chemical quality.

### **Operational**

- failure to maintain and produce mandatory documentation (such as water testing log, operator qualifications, operations manual, etc.)
- operating a facility when a closure order is in place



- operating a facility without the necessary approvals
- non-compliant chemical storage and handling
- failure to maintain proper hygiene in a facility
- operational staff not holding necessary qualifications
- failure to address any hazards that pose a risk to public safety
- failure to provide adequate supervision and monitor bather loading.

### Built environment

- failure to maintain appropriate safety signage, depth markings and safety equipment
- failure to secure a facility to prevent unauthorised access.



### Others

- misleading and falsifying information provided to authorised officers
- failure to comply with an improvement order/direction of an authorised officer
- impeding the authorised officer from collecting samples.

The respondents that agreed with the proposal to provide for infringement notices also provided further suggestions on the implementation of this proposal and how infringement notices should be enforced. It was mentioned that although infringement notices are a strong driver to require compliance with regulations, the use of improvement notices will be a more proactive approach. Infringement notices can require remedial action be taken to address any health risks that have been identified at a facility. Consideration should also be given to the different geographic locations of facilities and their staffing levels. Appropriate training should also be provided to authorised officers to ensure that the enforcement is consistent across all local government areas which will be essential in maintaining the industry's confidence in the system.

Though a list of offences has been provided by the respondents, it was suggested to provide that non-compliance with the Code (or sections within it) is an offence. This will simplify the enforcement process and allow for omissions. The infringement penalty should also be proportionate to the different offences. One respondent suggested that the matter should be discussed further in a working group.

Several reasons were given by respondents who did not agree with the proposal to provide for infringement notices or were unsure about it. These include:

- the requirement may be inconsistently enforced;
- local governments do not have time and capacity to conduct prosecutions for unpaid infringements;
- further consideration should be given to the amount of penalties that will be imposed for minor offences to ensure the financial viability to operate the facility is not impacted;
- most authorised officers do not have sufficient training or working experience in evidence collection and conducting prosecutions which is essential to ensure that the infringement is justifiable should the case be appealed in a court of law;

- infringement notices might not necessarily stop the exposure to a public health risk at a facility. In contrast, pool closure orders will be a more effective measure to require the necessary remedial actions to be undertaken immediately;
- local governments perceived to be lacking in ability to enforce the requirement of the regulations consistently, including in their own facility.

Further clarification was requested on who the enforcement agency should be in the event where an offence has been committed by an operator of a facility who is also the local government. A few local governments requested that the DOH be the enforcement agency for the more serious offences, including the closure of larger facilities.

A few respondents remarked that although the issuance of infringement notices is an additional administrative task, it will still incur less administrative burden compared to undertaking prosecutions. Most authorised officers are also experienced in the issuance of infringement notices and the Fines Enforcement Registry system is in place to manage unpaid infringement notices.

Further clarity is also required on what offences will result in a pool closure order being issued in contrast to an infringement notice.

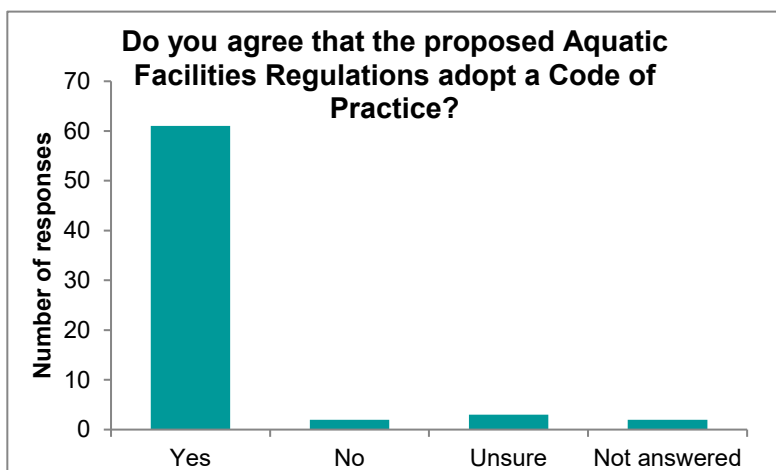
**DOH Recommendation:**

*The DOH recommends that an updated prescribed list of offences is developed. This ensures public health risks are adequately managed while the ability to issue infringement notices serve as a strong incentive for operators to ensure facilities are compliant.*

*The enforcement agency will retain the ability to issue improvement notices, infringement notices, enforcement orders, and prosecutions as discretionary enforcement actions. Some enforcement actions will require approval by the CHO to be applied.*

**Proposal 3 – Adopt a Code of Practice**

The third proposal presented in the discussion paper was for the Aquatic Facilities Regulations to adopt a Code of Practice (COP) for the design, construction, operation, management and maintenance of aquatic facilities. In the discussion paper, the proposed amendments were listed for comments and respondents were asked to raise any issues that they have experienced with the adoption of the current COP.

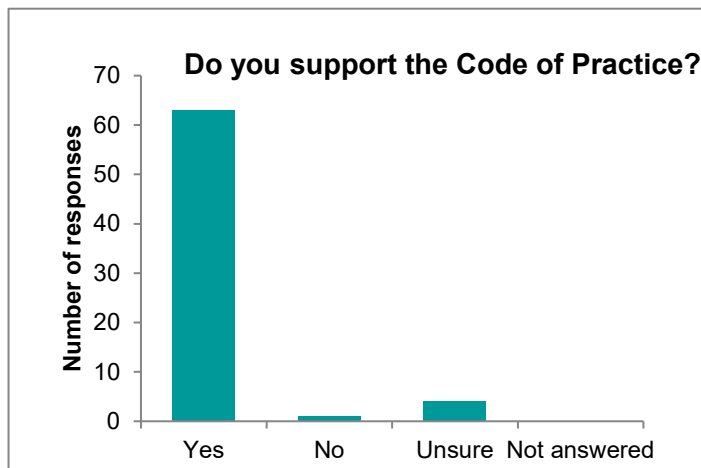


Although the majority of the respondents support the proposal for the Aquatic Facilities Regulations to adopt a COP, they have identified a range of issues that could be addressed in the next revision of the Aquatic Facility COP.

**Support for the current Aquatic Facilities Code of Practice**

In the consultation, the respondents were asked if they support the current Aquatic Facilities COP. 93% of the respondents support the Aquatic Facilities COP, while 6% of respondents were unsure and 1% did not support it.

Among the two major stakeholder groups, 98% of local government respondents supported the Aquatic Facilities COP and 92% of industry representatives supported it.



The main reasons for their support for the Code of Practice are as follows:

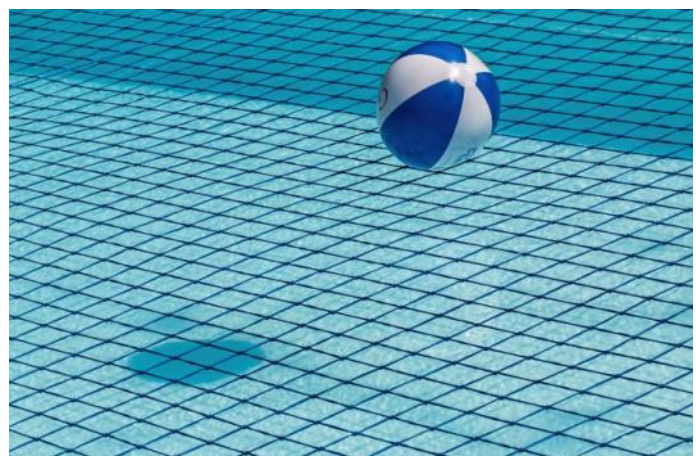
- it sets out the comprehensive technical details that cover all aspects relating to the design, construction, operation and maintenance of aquatic facilities. The level of detail in the Aquatic Facilities COP provides the enforcement agencies, industry and operators clear measures of compliance;
- it consolidates all the necessary information into a single document that is practical and easy to understand;
- it is a flexible and robust regulatory tool that can be easily updated to capture new innovations, technologies, changing practices, types of facilities and emerging issues;
- as the Aquatic Facilities COP is adopted in formal regulations, the necessary requirements set out in the document are enforceable and able to be consistently applied throughout the industry.

A few respondents also credited the low drowning and injury rates in aquatic facilities in WA to the well-established Aquatic Facilities COP and mentioned that it is a nationally recognised standard. Despite their support for the Aquatic Facilities COP, a common issue that was raised by some of the respondents was the need to update the Aquatic Facilities COP.

The respondents that did not support the Code of Practice felt that its requirements are overly excessive for some groups of aquatic facilities and also the qualification pathway for the approval of technical operators is currently too rigid.

#### Maintain the Code of Practice up to date

A few of the respondents felt that the COP is out of date and that it does not address significant developments in the aquatic industry in the areas of technology, emerging trends and facility design. One respondent felt that there should be more responsive mechanisms in place to ensure that the COP is kept current to the needs of the industry.



The DOH has recently updated the COP (January 2020) and will continue to monitor the developments in the aquatic facilities industry and update the COP as required to maintain currency. Minor changes of the COP can be directly approved by the CHO while significant changes will require consultation before its endorsement.

### **Better clarity and refinement of the facility grouping**

The current Aquatic Facilities COP broadly categorises aquatic facilities into four main groups. The operational and management requirements differ for each group. An update of the current group listing is needed to incorporate the various new and emerging aquatic facility types. One of the facility types that are currently omitted from the list is aquatic facilities located at holiday/short stay accommodation. As a result, the current COP lacks clarity on the compliance requirements for holiday/short stay accommodation. More information is also required for water slides, spray parks, water features, floatation tanks, ocean water slides, ocean inflatable water parks and inflatable water rides.

It was suggested that the aquatic facility categorisation be amended to adopt a more flexible and adaptable criteria that considers the risk of the facility. This would enable the compliance requirements for low risk facilities to be scaled to the facility's risk profile.

### **Improve technical details covered in the Code of Practice**

Respondents identified the need to review and update the following technical details in the COP:

- allow for more flexibility in signage and first aid requirements for aquatic facilities where the situation permits
- allow for more flexibility in water testing requirements that is based on the facility's risk profile
- additional technical details are required for chlorine, bromine and ozone disinfection
- technical details required for backwashing of filters
- the chemical handling and storage requirements will need to be aligned with the *Dangerous Goods Safety Act 2004*
- the electrical safety requirements will need to be aligned with the relevant legislation on electrical safety that are administered by Department of Mines, Industry Regulation and Safety (DMIRS)
- review the required control strategy to ensure that the action required is proportionate to the public health risk associated with microbiological sample failures
- review the re-certification requirements for facility technical operators.
- remove specific references to Australian Standards, the Royal Life Saving Society Australia (RLSSA) guidelines and training courses/units. These will be replaced with generic terms such as Registered Training Organisation (RTO).
- reorganise the content layout of the COP to make it more succinct and to improve its readability.

### **Reliance on private entities to administer regulatory, qualification requirements of the Code of Practice**

Under Section 6.2.1.1 of the COP, technical operators for Group 1 facilities are required to obtain an Accreditation Certificate that is issued by the Leisure Institute of Western Australia (LIWA) or an approved equivalent. This requirement is perceived to be overly restrictive as it is not appropriate to prescribe a specific organisation that is not governed by the DOH to administer a regulatory requirement. Furthermore, a conflict of interest was raised regarding



LIWA being sponsored by RLSSA who is in direct competition with other Registered Training Organisations that are approved to deliver the competency unit training.

Similarly, a RLSSA Pool lifeguard award is specified as a requirement to demonstrate the currency of practice for personnel responsible for patron supervision at a Group 1 facility. As there are other Registered Training Organisations approved by the Australian Government's Department of Employment, Skills, Small and Family Business that can deliver the competency units, it is not appropriate for the Code of Practice to specifically list the Pool lifeguard award by RLSSA as a requirement. This was perceived to be restricting fair trading and competition in the industry.

### **DOH Recommendation:**

*There is strong support to continue with the existing model for the Aquatic Facilities Regulations to refer to the Aquatic Facilities Code of Practice.*

*As this regulatory mechanism has been tried and tested in WA, the Aquatic Facilities Regulations will continue to adopt a revised version of the current Aquatic Facilities COP that incorporates the recommended amendments.*

*Proposed amendments are to:*

- *Require the review and update of the COP at least every 5 years or as required by the CHO;*
- *Remove restriction of fair trading (listing of specific awards, qualification courses/units, training providers etc.) Instead, reference to 'Registered Training Organisations (RTOs)' will be referred in the COP text; and*
- *Remove COP references and requirements that duplicate the National Construction Code (NCC).*

*To bolster the Regulations and COP requirements, the DOH also proposes to set up a 'Professional Review Board' or similar informal working group, with the intent to determine and approve units of competency for authorised persons, operators, technicians; and to determine course content for accreditation courses from RTOs for the above persons.*

### **Proposal 4 – Revise the requirements and process for exclusions**

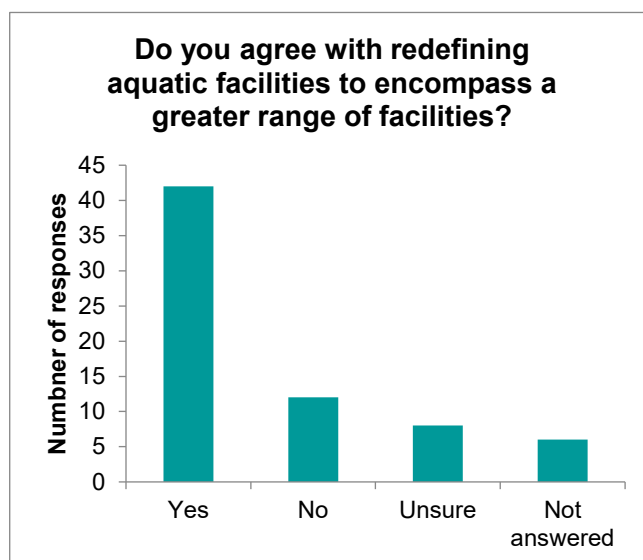
The fourth proposal presented in the discussion paper was to revise the requirements for the different aquatic facility groups and to better define the process for exclusions. A risk matrix was presented as an example on how the risk of the different types of facilities may be assessed to revise the requirements for the different aquatic facility groups.

#### **Redefine the aquatic facility grouping system**

62% (42) of respondents agreed with the proposal to redefine the grouping system for aquatic facilities. 18% (12) of respondents disagreed with the proposal while 12% (8) were unsure.

While it was generally agreed by respondents that revising the aquatic facility grouping system was needed as part of this review, there was opposition to the proposal.

One of the reasons why some respondents disagreed with the proposal was that they felt



that the current grouping of aquatic facilities is meeting for the industry’s needs and a risk-based approach was already being used to group the aquatic facilities. As such, some respondents felt that the use of the risk matrix presented in the discussion paper is complicated and onerous for the purpose. This view was also shared by some respondents who agreed to redefine the grouping system for aquatic facilities but not using the proposed risk matrix as a method to achieve this.

The following concerns were raised by the respondents regarding the proposal to enforce the need to establish risk management plans as a means to mitigate risks in aquatic facilities:

- mandatory risk mitigation measures should instead be defined in the Code of Practice;
- the risk assessment undertaken to establish the risk management plan is a qualitative process where the final outcome is highly subjected to the experience and perception of the personnel undertaking the assessment. This will in turn create inconsistencies and confusion on the risk mitigation measures required in aquatic facilities;
- the requirement is disproportionate to the risk it aims to mitigate;
- the requirement is overly burdensome from small low-risk aquatic facility operators;
- there is high likelihood for aquatic facility owners/operators to underestimate the risks for the facility in order to reduce the mitigation strategies that needs to be implemented;
- local government will not have the capacity to check and monitor aquatic facility operators to ensure that they implement their risk management plans.

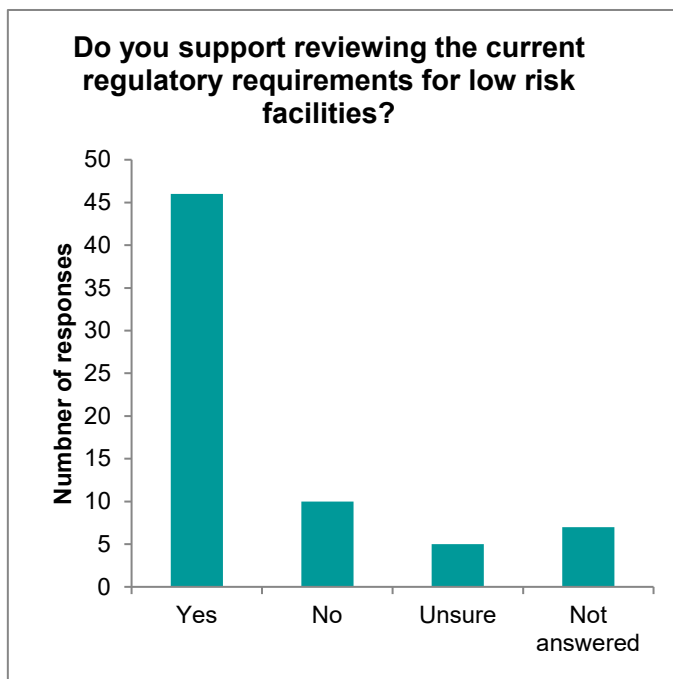
### Review of current regulatory requirements for low risk facilities

The discussion paper also investigates the feasibility to reduce the regulatory requirements for low risk facilities and alternative means to manage its residual public health risks.

68% (46) of respondents supported a review of the current regulatory requirements for low risk facilities. 15% (10) of respondents felt that a review was not required, while 7% (5) were unsure.

Of the respondents who felt that the regulatory requirements for low risk facilities should be reviewed, the following reasons were given:

- the process should be simplified to ensure the regulatory requirements are not overly-burdensome for small business owners / pool operators;
- the default requirements for Group 4 facilities as prescribed in the COP can be excessive for certain types of facilities and not necessarily its risk profile;
- certain regulatory requirements for low risk aquatic facilities are not proportionate to their risk profile when compared to facilities of a high risk. An example is the water sampling requirement where the same sampling frequency is prescribed for all aquatic facilities regardless of its risk. By reducing the requirements for low risk facilities, local governments will also be able to divert its resources for other functions;



- the design for low risk facilities required by the COP is sufficient in managing the critical public health risks for the facility. As such, minimal ongoing regulatory requirements should be imposed on facilities that are compliant with the COP.

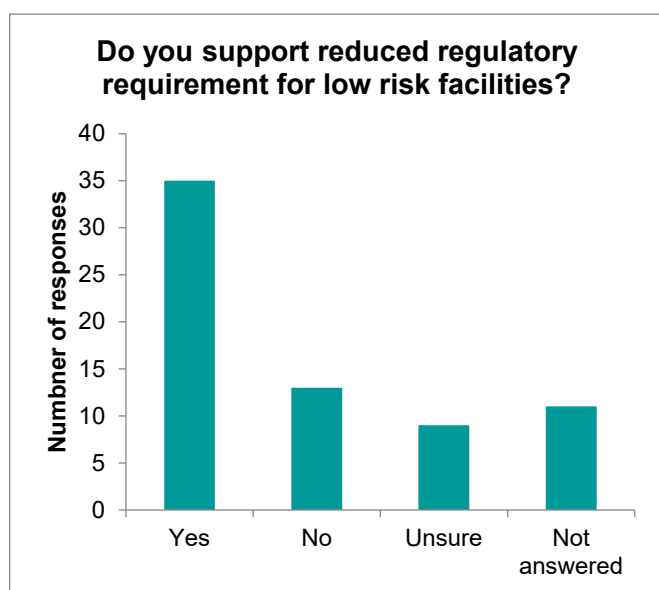
It was also suggested that the review of regulatory requirements be extended to all aquatic facilities captured by the COP.

Conversely, some respondents felt that the public health risks associated with low risk facilities currently captured by the COP warrants the prescribed regulatory controls. As such, the regulatory requirements should not be reduced. Aquatic facilities in short term holiday accommodations as an example, were perceived to be higher in risk compared to residential household pools. Another example provided by a local government respondent was that water quality issues still occur in low risk facilities. For this reason, the current requirements in the COP for low risk facilities were seen as necessary.

Any changes that are proposed should also consider the impact on local government’s resources and their capacity in carrying out any additional administrative functions.

### Reduce the regulatory requirements for low risk facilities

51% (35) of respondents agreed that the regulatory requirements for low risk facilities should be reduced. 19% (13) of respondents felt that the regulatory requirements for low risk facilities should not be reduced, while 13% (9) were unsure.



The reasons given for support of this proposal were similar to those given in the previous section on why a review of the regulatory requirements for low risk facilities is required. It was also suggested that regulatory requirements for low risk facilities to be made scalable according to the tracked performance of the facility.

A few respondents had concerns on the enforceability of the proposed guidelines that will be applicable to low risk facilities. As such, it was recommended that the current requirements in the COP be reduced for low risk facilities but not excluded from the scope of the regulations.

Respondents who disagreed with the proposal to reduce the regulatory requirements for low risk facilities provided the following reasons:

- operators not operating and maintaining the facilities adequately due to the lack of regulation;
- the public health risks associated with low risk facilities are still significant enough to require control via formal regulations;
- the current regulatory requirements are effective in managing the public health risks associated with low risk facilities. The reduction of regulatory requirements will increase the overall risk of these facilities to an acceptable level;
- the lack of formal regulatory control at the design and construction stage of low risk facilities will significantly increase the risk of these facilities;
- there is a lack of evidence that a reduction in regulatory requirements for low risk facilities will not significantly impact on public health.

## Request risk management plans

The second option proposed in the discussion paper as a management strategy for some types of low risk facilities, such as short stay accommodation facilities, is to require the facility operator submit a risk management plan to the local government for approval.

There were more respondents that did not agree (38%) with this proposal compared to those who agreed (29%), while 19% of respondents were unsure.

The following concerns and issues were raised by respondents who did not agree with the proposal:

- the requirement will impose additional financial and administrative burden on facility owners/operators;
- the current Aquatic Facilities COP is sufficient in prescribing the required risk management measures required for low risk facilities. If this regulatory process is replaced with the requirement to establish a risk management plan, the adequacy and quality of the risk management plans will be heavily dependent on the competency and experience of the risk assessor. The inconsistencies and variabilities introduced by the process are undesirable for the aquatic facilities industry and regulator alike;
- in comparison to prescriptive regulations, risk management plans were perceived to be an inferior method to define the legal responsibilities and liabilities of an aquatic facility operator in ensuring that their facilities will not cause harm to the patrons;
- local governments currently do not have the technical experience or capacity to review and approve risk management plans. A few local government respondents were concerned with the legal liability that will be imposed on them as the approving authority that approves the risk management strategies required for a facility. An alternative that was proposed was to have the risk management plans independently certified by suitably qualified personnel;
- not all facility operators are familiar with the implementation of risk management plans. In comparison, requirements formally prescribed in regulations will provide better clarity to facility owners/operators which will ensure the required risk management measures for low risk facilities are in place.

Some respondents perceived risk management plans to be the best practice in the industry and this requirement should be imposed on all aquatic facilities. The use of independent auditors to review and endorse the risk management plans before it is provided to local government was also suggested.

One respondent also suggested the option of excluding low risk facilities from the regulations and investigate the feasibility of discharging the operator's duty of care by informing all patrons that the use of the facility will be at their own risk.

## DOH Recommendation:

*The majority of respondents agreed that the current grouping system for aquatic facilities should be redefined to match the level of regulatory requirement with the public health risk of the facility. A review of the current regulatory requirements for low risk facilities was supported, with*



consideration of the regulatory burdens to local government and small businesses or pool operators.

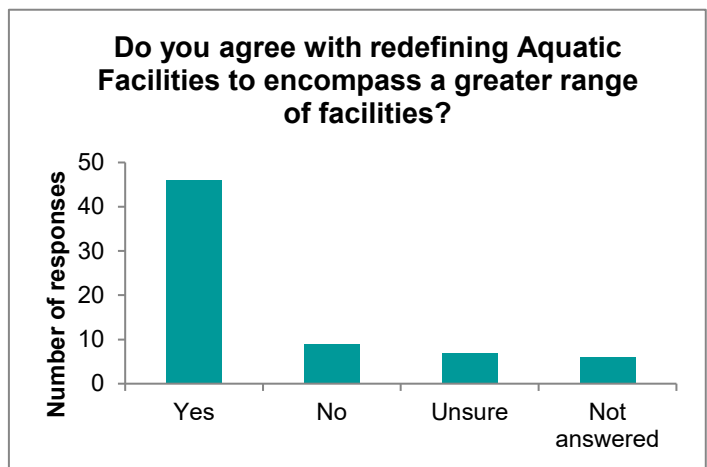
There was more opposition than support to the proposal that low risk facilities provide a risk assessment. The DOH does not recommend using the proposed risk matrix for pool owners and operators to use to determine risk categories. Instead, the DOH proposes that low risk facilities are to be managed through compliance with the General Public Health Duty, with additional guidance documents and information provided by the DOH.

A review of the definitions related to Aquatic Facilities will result in excluding residential only facilities (including strata facilities where only residents and their guests are permitted to have access) from Group 4 classification.

### Proposal 5 – Revise the definition of ‘aquatic facilities’

In the current Aquatic Facilities Regulations, only certain types of ‘aquatic facilities’ were specified under the definition of ‘water body’, which is defined as a:

- spa pool;
- swimming pool;
- swimming bath;
- water slide;
- wave pool; and
- any other aquatic amenity or facility that is controlled or used by or in connection with any club, school, business, association or body corporate.



The current COP that is adopted by the Aquatic Facilities Regulations elaborates on the different types of aquatic facilities that are captured by regulations. The discussion paper presented the proposal to provide further clarity on the definition of ‘aquatic facilities’ to encompass a greater range of facilities.

68% (46) of respondents supported the proposal to revise the definition of ‘aquatic facilities’ to encompass a greater range of facilities. In contrast, 13% (9) of respondents did not support the proposal, while 10% (7) of respondents were unsure.

The following types of facilities have been mentioned by the respondents for consideration in the revision of the definition: flotation tanks, water spray parks, ocean-fed pools, interactive water features with recirculating systems and surf/wave machines.

Water spray parks are increasingly popular across the state given they are a cheaper and lower risk alternative to swimming pools.

Another emerging trend is the development of facilities that are located in a natural environment that have been modified for recreational purposes. For example, ocean-fed pools, cable water ski parks, inflatable play structures in natural water bodies. It was recommended to review the feasibility and determine if there is a need to capture these facilities in the Aquatic Facilities Regulations.

From the responses received, the technical requirements on flotation tanks have been identified as an area that is currently lacking and not sufficiently addressed in the COP.

Flotation tanks are considered low risk facilities due to an expected low volume of users in comparison to other aquatic facilities. The water chemistry and design of flotation tanks are also

very different from conventional aquatic facilities; therefore, general provisions in the COP cannot be applied. As indicated below, low risk facilities are intended to be managed by the application of the General Public Health Duty, inherent in the *Public Health Act 2016*.

Provisions should also be made to allow for a broader and flexible definition in order to cater for new and emerging types of facilities not specifically defined in the regulations. It was also suggested that all publicly accessible facilities be regulated due to the inherent risks associated with water-based activities, such as drowning risk and waterborne pathogens.

### DOH Recommendation:

*The majority of respondents agreed to revise the ‘aquatic facility’ definition. The DOH will amend the definition to allow for new and emerging facilities that pose a public health risk to be included. A revised definition of ‘aquatic facility’ is proposed to include the following factors:*

- *artificially constructed; AND*
- *water retaining structure more than 680L in volume (including balance tank volume); AND*
- *intended for primary contact; AND*
- *water is recirculated; AND*
- *accessible to the public that is controlled or used by or in connection with any association, business, club, school/educational institute or hospital.*

*Any aquatic facility that does not meet each of the above factors will not be considered an ‘aquatic facility’ and therefore the proposed regulations will not apply. Instead, the General Public Health Duty will apply to these facilities, and the DOH will provide additional guidance documents to assist owners/operators in fulfilling their duty of care to patrons.*

*A definition for ‘primary contact’ is also proposed to be included, as adopted from the Guidelines for Managing Risks in recreational water – “An activity in which the whole body or the face and trunk are frequently immersed or the face is frequently wet by spray, and where it is likely that some water will be swallowed or inhaled, or come into contact with ears, nasal passages, mucous membranes or cuts in the skin: (e.g. swimming, diving, surfing, or white-water canoeing)”.*

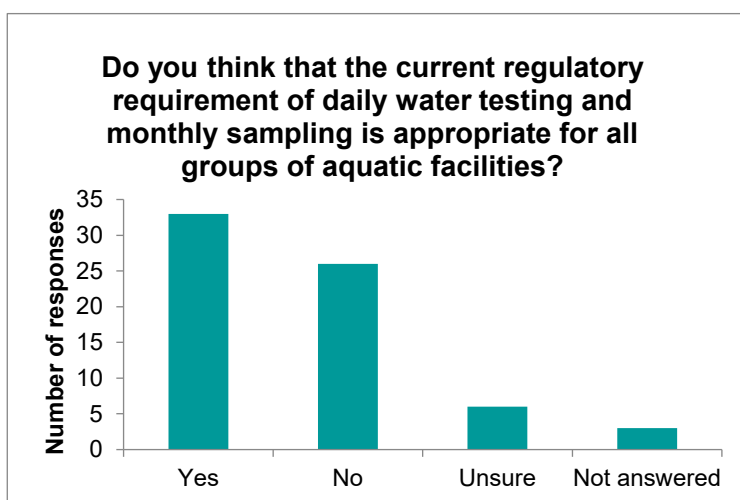
### Proposal 6 – Revise the requirements for pool sampling and testing

The discussion paper investigated the need to review the water testing and sampling requirements for aquatic facilities.

#### Daily water testing and monthly water sampling

There was mixed response to the current sampling requirements. 49% (33) of respondents agreed that the current requirement for daily operational water testing and monthly microbial sampling is appropriate for all aquatic facility groups. Conversely, 38% (26) of respondents disagreed and 9% (6) of respondents were unsure.

Daily testing relates to monitoring chlorine levels (or equivalent) and other chemicals to inhibit microbial growth whereas monthly sampling is a process of verification that the monitoring of



chlorine levels is working.

The majority of the respondents across all categories agreed that daily water testing is essential across all aquatic facility groups. It was acknowledged that the daily water testing required in the COP provides validation that the water is disinfected adequately. As chemical controllers require constant adjustments, corresponding daily water testing is required to achieve this operational procedure. In contrast, monthly water sampling only provides an indication of the water quality at the time of sampling. As such, daily water testing provides more responsive and current data on the water quality for facility and its treatment system's performance. Most respondents felt that the different frequencies prescribed in the COP for the different aquatic facility groups is adequate and aligns with the facility's risk profile.

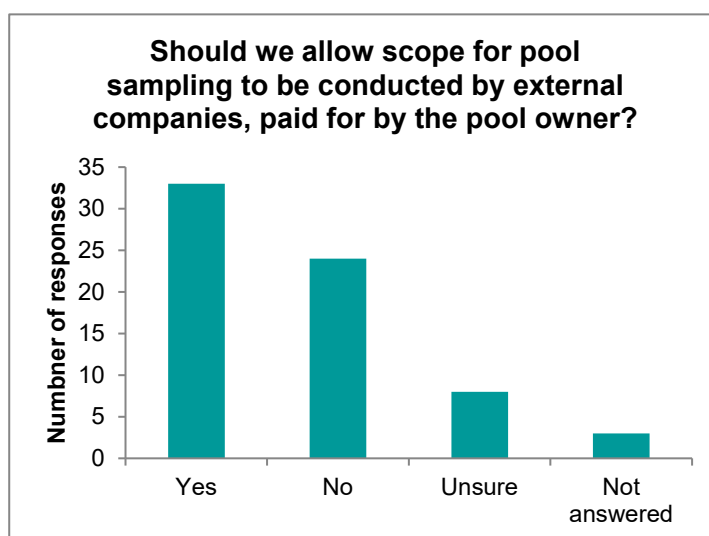
Most respondents agreed that the monthly sampling currently required by the COP is adequate for high risk facilities. However, consideration should be given to reduce the water sampling frequencies for low risk facilities, particularly Group 4 facilities. The frequency for water sampling should be revised for these facilities basing on the following recommended factors:

- facility's risk profile
- tracked performance of the facility that considers historical water sampling results
- daily chemical quality testing results.

Should a facility perform poorly in their daily water testing and routine water sampling results, it would be reasonable to require water sampling to be done at a higher frequency. A few respondents suggested that local governments be given the discretion to determine the routine sampling frequencies for low risk facilities.

### Sampling by external companies

49% (33) of respondents agreed that water sampling should be permitted to be carried out by external companies and for the associated costs to be borne by the pool owner. In comparison, 35% (24) of respondents did not agree with the proposal, while 12% (8) of respondents were unsure. Unfortunately, the survey question was not split into the two parts i.e. Question 1 – Should we allow external companies to sample? And Question 2 – Should pool owners pay sampling costs? As a result responses within the Yes and No answers were quite varied where they provided further detail. A summary of the key categories of responses are below.



### *Increase in overall costs associated with water sampling*

In the current arrangement, the cost of water analysis charged by the laboratory is fully borne by the State. Some local governments absorb the costs associated with the sample collection and freight. Of the local governments who charge a fee for the sample collection and freight, the amount charged is strictly fee for service.

In contrast, where this process is undertaken by an external company, it is anticipated that a profit margin will be applied to the overall cost of sampling, freight and analysis of the water sample.

Conversely, one respondent was of the opinion that lessening the restrictions on the activity could result in an increase in market competition which will drive down the cost of the service delivery.

It is anticipated that aquatic facilities will be responsible for their sampling and water analysis.

### ***Logistics and delivery of service***

Currently, all water analysis is undertaken by PathWest (State operated laboratory) and water analysis results are automatically transferred to the DOH and forwarded to the local government. If the water sample analysis is undertaken by any other laboratory, a proper system will need to be established to ensure sampling results are forwarded to the relevant enforcement agencies.

Perceived disadvantages of external sampling:

- there may be a lack of external companies that will be able to deliver the required services in regional areas of the State. As such, this proposal will disadvantage pool owner/operators in regional areas where the cost of this service is expected to be significantly higher compared to metropolitan areas;
- some local governments undertake brief inspections when they are collecting water samples at an aquatic facility. During these inspections, any issues that are identified are communicated to the pool owner/operator for remediation. Some respondents doubted this additional (complementary) service would be provided;
- there may be an increase in missed sampling. This issue can possibly be addressed by issuing an improvement notice or infringement notice to the pool owner/operator for failing to meet the regulatory requirement.



Perceived advantages of external sampling:

- may be a useful option for local governments that do not have authorised officers or the capacity to undertake water sampling;
- more closely aligns with the overall system manager role. Current investment by DoH sampling water could be better directed to where it will have the most impact on improving outcomes in all risk areas, not just water quality;
- allows for flexibility that may lead to increased compliance;
- reduce the burden on local government.

### ***Approval of external companies and laboratories***

A few respondents agreed with the proposal for a formal approval process for the external companies and laboratories. As the collection and preservation of water sample is a technical procedure, the personnel collecting the sample need to be properly qualified to do so.

The laboratories where the samples will be analysed will also need to be certified to carry out the analysis. This formal approval process presents opportunities to ensure the approved laboratories report the results to the relevant enforcement agencies.





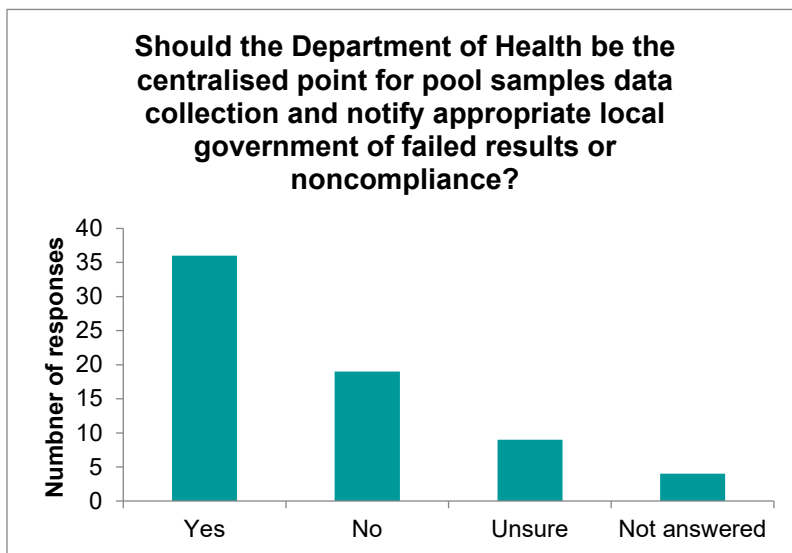
### **Facility owner/operator to be responsible over the cost of regulatory compliance**

Some respondents that agreed with the proposal felt that it is the facility owner/operator's responsibility to bear the costs for regulatory compliance. By transferring the current cost back to the facility owner/operator, the regulator can redirect the savings in their expenditure to other enforcement activities that have greater impact on public health.

### **Data collection and action for non-compliances**

53% (36) of respondents agreed for water sampling data collection to be centralised with the Department of Health. In comparison, 28% (19) of respondents did not agree with the proposal, while 13% (9) of respondents were and unsure.

It is worth noting that most respondents felt that the current arrangement where the analysis data is sent directly from the laboratory to both the local government and the DOH simultaneously is well established and working well. Local governments are the primary responders to non-compliant results and the DOH follows up with the local governments on more serious non-compliances.



The main reason provided by respondents for water sampling data collection to be centralised with the DOH is that this enables the DOH to carry out its system manager role. As this process is currently in place, some of the key benefits that were identified are as follows:

- the DOH could provide support in statistical analysis and trending of long-term results for specific aquatic facilities. By having data centralised in a single location, any long-term issues can be identified which would have otherwise be missed in the review of individual sampling results;
- the DOH could provide monthly reporting on non-compliances and annual reporting on compliance sampling data;
- the DOH will have better insight and overview of aquatic facility compliance and safety for the whole state. The data could be used to formulate the required guidance and advice on specific issues for aquatic facilities and in the review of legislation;
- the DOH could provide technical advice on the remedial actions required for more serious non-compliant results/situations;
- as the DOH is currently the enforcement agency responsible for pool closures, it is important to have access to water sampling data in a centralised location.

It was also mentioned that there are laboratories other than PathWest that are currently undertaking the analysis of compliance water samples. It is important that a proper system is in place to ensure that the compliance sampling data from these laboratories is transferred to the DOH.

The main reason that was given by respondents who did not agree to the proposal was that the local governments should be the primary recipient of the water analysis data as they are the primary responder. Should the DOH be made the intermediary between the laboratories and local governments, the receipt of results by local government will be delayed. One respondent felt that it was not necessary for the DOH to receive all water analysis results but only the reportable non-compliances that have been agreed upon with the local government.

**DOH Recommendation:**

*It is important that regular water sampling and testing remains in place for all aquatic facilities, and that testing results are provided to the appropriate enforcement agency. NATA accredited laboratories performing the testing will be required to provide testing results to the enforcement agency within a reasonable time period after the samples have been received.*

*Enforcement agencies will in turn be required to report to the DOH on non-compliances in water testing and to inform of remedial action that has occurred to rectify an issue. Enforcement action provisions will be provided in the regulations for the enforcement agencies to apply appropriate action for operators not responding in a timely manner or at all, to sub-par testing results.*

*The frequency of water sampling will be amended with the intention of aligning the frequency with the risk associated with the aquatic facility Group classification. Groups 1 and 2 will remain the same, while Groups 3 and 4 will decrease according to the lower risk.*

*The DOH will consider the merits of utilising external companies on behalf of the operators and enforcement agencies to conduct aquatic facility water sampling.*

**Proposal 7 – Revise the requirements that prohibit persons from entering**

Regulation 24 can be invoked to prohibit certain persons from entering the water. This includes persons:

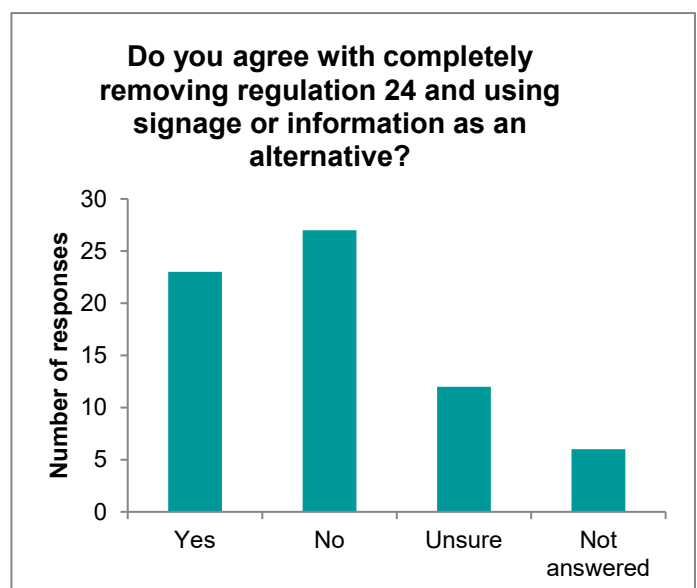
- suffering from infectious conditions that can be transmitted in an aquatic environment;
- in an unclean condition;
- wearing unclean clothes;
- under the apparent influence of alcohol and/or drugs;
- and a baby or young child who ordinarily wears a nappy but is not wearing an aqua nappy.



There were more respondents who disagree (40%) with the removal of Regulation 24 and to use signage or information as alternatives compared to the respondents agreed with the proposal (34%) while 18% (12) of respondents were unsure.

The respondents who disagreed with the proposal felt that Regulation 24 is an important provision in the Aquatic Facility Regulations that empowers the facility operator to prohibit persons from entering a water body. Although there are difficulties in the enforcement of this regulation due to the subjectivity of the conditions for prohibition, the regulation still provides the facility operator the residual powers to prohibit persons from entering a water body. In the absence of formal regulations, it was perceived to be even harder to prohibit persons from entering a water body when it is not appropriate for them to do so. A local government mentioned that they were successful in enforcing the regulation and the regulation should be retained as it is still useful for certain situations when required.

In comparison to the use of signage, formal regulations will be far more effective in preventing persons that will pose a risk to other swimmers from entering a water body. This is due to the fact that not all patrons read nor follow instructions on a sign.



Out of the 27 respondents who disagreed with the proposal, only 2 agreed with the removal of the prohibition conditions: in an unclean condition (Regulation 24(1)(b)) and wearing unclean clothes (Regulation 24(1)(c)). To improve the compliance with the two conditions, one respondent recommended that facility operators offer a swimming garment loaning service.

**DOH Recommendation:**

*The DOH will retain regulation 24 and amend the wording to a generalised statement that persons who present a public health risk to other patrons may be refused entry to the aquatic facility. Examples include, but are not limited to persons:*

- *with open wounds;*
- *suffering from infectious conditions that can be transmitted in an aquatic environment;*
- *in an unclean condition;*
- *wearing unclean clothes;*
- *under the apparent influence of alcohol and/or drugs;*
- *and a baby or a young child who ordinarily wears a nappy but is not wearing an aqua nappy.*



## Next steps

The information gathered in this consultation indicates that there is a majority preference for ongoing regulation of aquatic facilities under the Public Health Act.

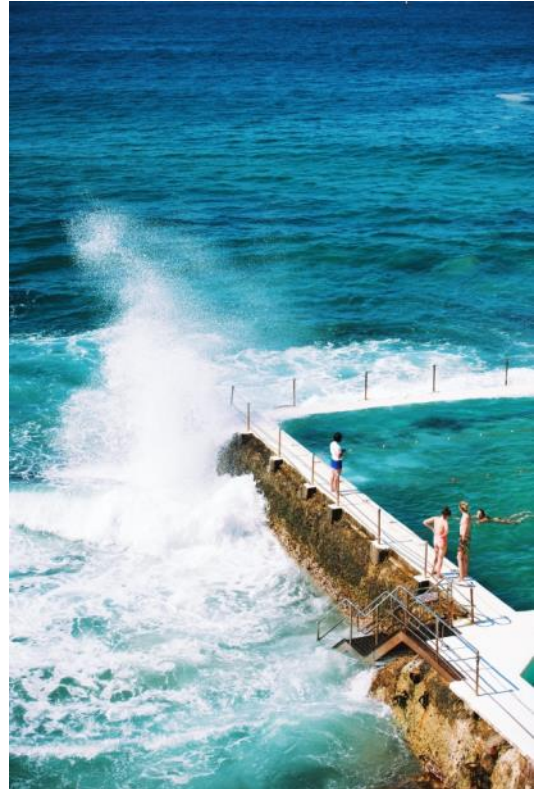
The DOH will review the Aquatic Facilities COP and legislative requirements detailed above. Further information on the following will be sought:

- legal advice on sample collection and applying enforcement action to late or missed samples
- whether external water sampling providers can be engaged by operators and enforcement agencies
- research facilities that may or may not be captured by the revised definition
- unintended consequences of the proposed regulation content

Once this information has been obtained, the DOH will commence developing a Preliminary Impact Assessment for the Department of Treasury's Better Regulation Unit. This is required as part of the Regulatory Impact Assessment process.

For information on the DOH's Public Health Act regulation review program, visit the **WA Health website** <https://ww2.health.wa.gov.au/Improving-WA-Health/Public-health/Public-Health-Act/Regulation-review-program>;

or sign up to the **Environmental Health Directorate newsletter** to be notified of any upcoming consultations <https://health.us7.list-manage.com/subscribe?u=bbc68d42eff51a06d25cb71db&id=618b4db23b>.



## Appendix 1 – Stakeholder engagement list

Submissions to this consultation were received from the following organisations (please note that some respondents elected to remain confidential and are therefore not included in this list):

| <b>Local Government</b>                 |  |
|---|--|
| City of Albany                          | City of Greater Geraldton                                |
| City of Armadale                        | Shire of Harvey  |
| Shire of Augusta Margaret River         | City of Joondalup  |
| City of Bayswater                       | City of Kalamunda  |
| Shire of Bruce Rock                     | City of Kalgoorlie Boulder                               |
| City of Bunbury                         | Shire of Leonora   |
| City of Busselton                       | City of Mandurah   |
| Town of Cambridge                       | City of Melville   |
| City of Canning                         | Shire of Menzies   |
| Shire of Capel                          | Shire of Merredin  |
| Shire of Chittering                     | Shire of Murray  |
| Town of Claremont                       | City of Perth  |
| City of Cockburn                        | Town of Port Hedland                                     |
| Town of Cottesloe                       | Shire of Serpentine Jarrahdale                           |
| Shire of Dalwallinu                     | City of Stirling   |
| Shire of Donnybrook Balingup            | City of Subiaco  |
| Shire Esperance                         | City of Swan   |
| Shire of Exmouth                        | City of Vincent  |
| City of Fremantle                       | City of Wanneroo   |
| City of Fremantle Leisure Centre        | Various Country Local Governments                        |
|   | Metropolitan Environmental Health Managers Group (MEHMG) |
| <b>Industry groups and associations</b> |  |
| LIWA Aquatics                           |  |
| Perth Scuba                             |  |
| Royal Life Saving Society WA Inc.       |  |
| SPASA Australia                         |  |
| State Swim                              |  |
| <b>State government</b>                 |  |
| Department of Education                 |  |
| <b>Other</b>                            |  |
| Mel's Aqua Fitness & Learn to Swim      |  |
| See Clearly Now Pty Ltd                 |  |

## Appendix 2 – Online CitizenSpace questions

### Introduction

1. Would you like this response to be confidential?
2. What is your name?
3. Please indicate who you represent?
4. What is the name of the organisation you represent? If you are a member of the public please type 'public'.
5. Do you currently enforce the Health (Aquatic Facilities) Regulations 2007?
  - a. If yes, how many aquatic facilities do you inspect or manage?
  - b. How often do you inspect or manage?
  - c. Have you had any complaints in the last 10 years? If so, please provide details.

### Future Management Options

6. Please indicate your preferred option for managing public health risks associated with aquatic facilities in WA.
  - a. Why is this your preferred option?
7. Do you support the Code of Practice?
  - a. Why?
8. Can you identify any other advantages (benefits) or disadvantages (costs) for your preferred option?

### Proposed regulatory changes

9. Do local governments currently have the capacity to assess aquatic facility applications?
  - a. Why
10. Do you agree that local governments would be the appropriate agency to assess aquatic facility applications?
11. Do you agree with the listed advantages (benefits) and disadvantages (costs) for this proposal?
  - a. If not, what do you suggest?
12. Can you think of any additional advantages (benefits) and disadvantages (costs)?
13. Do you agree with prescribing a list of offences for which an infringement notice may be issued?
  - a. If yes, can you list offences and penalties that you believe should be captured? And why?
  - b. If no, why?
14. Do you agree with the listed advantages (benefits) and disadvantages (costs) for this proposal?
  - a. If not, what do you suggest?
15. Can you think of any additional advantages (benefits) and disadvantages (costs)?
16. Do you agree that the proposed Aquatic Facilities regulations adopt a Code of Practice?
  - a. If yes, have you found any issues with the current practice of adopting the Code of Practice? And if so, why?
  - b. If no, what do you suggest?
17. Do you agree with the listed advantages (benefits) and disadvantages (costs) for this proposal?

- a. If not, what do you suggest?
18. Can you think of any additional advantages (benefits) and disadvantages (costs)?
  19. Do you agree with redefining the current Group system for aquatic facilities using a risk matrix?
    - a. If yes, would you support enforcing a risk management plan or can you provide an alternative option to reduce risk?
    - b. If no, why not?
  20. Do you support reviewing the current regulatory requirements for low risk facilities?
    - a. Why?
  21. Do you support Option 1 (reduced regulatory requirement for low risk facilities)?
    - a. Why?
  22. Do you support Option 2 (requiring low risk facilities to provide a risk management plan to local government)?
    - a. Why?
  23. Do you agree with the listed advantages (benefits) and disadvantages (costs) for this proposal?
  24. Can you think of any additional advantages (benefits) and disadvantages (costs)?
  25. Do you agree with redefining Aquatic Facilities to encompass a greater range of facilities?
    - a. If yes, are there particular facilities that you think need to be regulated or excluded? And why?
    - b. If not, what do you suggest?
  26. Do you agree the listed advantages (benefits) and disadvantages (costs) for this proposal?
    - a. Why?
  27. Can you think of any additional advantages (benefits) and disadvantages (costs)?
  28. Do you think that the current regulatory requirement of daily water testing and monthly sampling is appropriate for all groups of aquatic facilities?
    - a. If yes, why?
    - b. If no, please provide details of which groups you think may be excluded from these requirements.
  29. Should we allow scope for pool sampling to be conducted by external companies, paid for by the pool owner?
    - a. Why?
  30. Should the Department of Health be the centralised point for pool samples data collection and notify appropriate local government of failed results or non-compliance?
    - a. If yes, what do you need from the Department of Health?
    - b. If not, what do you suggest?
  31. Do you agree with the listed advantages (benefits) and disadvantages (costs) for this proposal?
    - a. Why?
  32. Can you think of any additional advantages (benefits) and disadvantages (costs)?
  33. Do you agree with completely removing regulation 24 and using signage or information as an alternative?
    - a. If yes, what do you need us to provide (posters, templates, etc.)?
    - b. If no, do you wish for the regulation to remain in its entirety and why?
    - c. If no, do you agree with removing sections b and c only?

34. Do you agree with the listed advantages (benefits) and disadvantages (costs) for this proposal?

a. Why?

35. Can you think of any additional advantages (benefits) and disadvantages (costs)?

**Additional comments**

36. Can you think of any additional regulatory proposals to be considered? Please provide details as well as supporting evidence where possible.





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