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Your ref: COR2010 00037

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29 November 2012

Ms Audrey Jamieson, Coroner  
Coroners Court of Victoria  
Level 11, 222 Exhibition Street  
MELBOURNE, VIC 3000

Dear Ms Jamieson

**Investigation into the death of Jacob O Ben Zur (COR 2010 00037)**

On 23 August 2012 you handed down your findings in relation to the tragic death of Jacob O Ben Zur. In the finding, you made two recommendations, the first directed at Consumer Affairs Victoria and the second directed to me and the Hon Mathew Guy, Minister for Planning. The Minister has asked that I respond on his behalf.

The recommendation is that the Minister and I—  
*“consider contributing circumstances to this death, and determine whether amendments should be made to the existing swimming pool barrier requirements to reduce the risk of previously acceptable barrier configurations, particularly those which utilise self-closing doors, when properties are sold, or offered for lease”.*

This recommendation is currently being considered by the Building Regulations Advisory Committee (BRAC). The BRAC is a statutory authority under the *Building Act 1993* (the Act). The role of the BRAC is to advise the Minister on proposed regulations and the extent to which they promote the objects of the Act, are cost effective and are necessary.

In 2010, the BRAC considered whether Victoria should introduce retrospective regulations which would have required an upgrade of all existing pool barriers to 4 sided isolation barriers. This followed a move in Queensland to require upgrades to that effect and an amendment to the Building Code of Australia commencing 1 May 2010 which prevented the use of a door from a house as part of a pool barrier configuration.

At that time the BRAC concluded that there should be no mandatory requirement to have all existing pools upgraded to a four sided isolation barrier. It noted that in all the research and other material it had examined *“the overwhelming majority of drownings in home pools occur due to lack of complying barriers (whether that be 3 sided or 4 sided barriers) and lack of adequate supervision.”*

Preliminary advice suggests that the recommendation in the Jacob Ben Zur finding would require amendment to the *Sale of Land Act 1962* and the *Residential Tenancies Act 1997*. I have asked the BRAC to again reconsider this matter in light of your recommendation and I will provide the Minister and you with further advice when the BRAC has concluded this work.

Thank you for the opportunity to respond to the important safety issue identified in your findings.

Yours sincerely



**Michael Kefford**  
Building Commissioner

Copy to: The Hon Mathew Guy, Minister for Planning