NOTICE OF SWIMMING POOL NON-COMPLIANCE

(Clause 22E, Swimming Pools Act 1992)

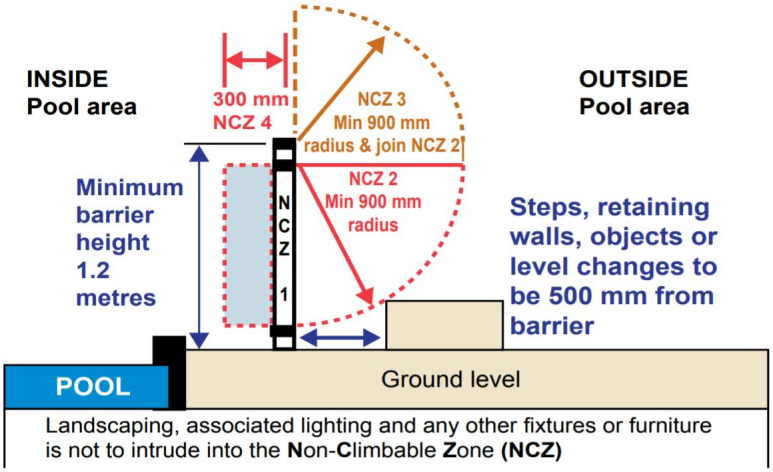
Notice Date: 20 June 2023
Premises to which this notice relates: 11 Holland Crescent Frenchs Forest.
Pool Installation Description: In-ground concrete swimming pool

Further to your request for an inspection of the swimming pool barrier installation at the above premises, it is advised that an accredited pool certifier undertook an inspection on 20 June 2023.

Such inspection was undertaken to determine whether the swimming pool's child resistant barrier was in compliance with the provisions of the Swimming Pools Act 1992 and if compliant, to permit the issue of a Certificate of Compliance under Section 22D of that Act.

I inform that the inspection revealed that the swimming pool's barrier installation was, at the time of inspection, not in compliance with the requirements of the Swimming Pool Act 1992. Consequently, the Certificate of Compliance cannot be issued. In this regard, the following table identifies the defect(s) that were evident and the suggested solution(s) for rectification.

1. **Defect/non-compliance identified** Mesh wire was within the 900 mm Non-Climb Zone (NCZ) on the outside of the pool fence. The 900 mm NCZ is required to be kept clear so that children cannot use any object close to the fence to assist them to climb into the pool enclosure. **Suggested solution for rectification** Remove or relocate the mesh wire outside the 900 mm NCZ so it cannot be used to assist children to climb over the fence and into the pool enclosure. The NCZ is a 900 mm arc measured outward from the top most rail on the fence (if there is an upper rail) or the top of the fence and also extends upward above the top of the fence. The NCZ is semi-circular in shape.



Above is a diagram showing the NCZ requirements for an internal barrier less than 1800mm high.

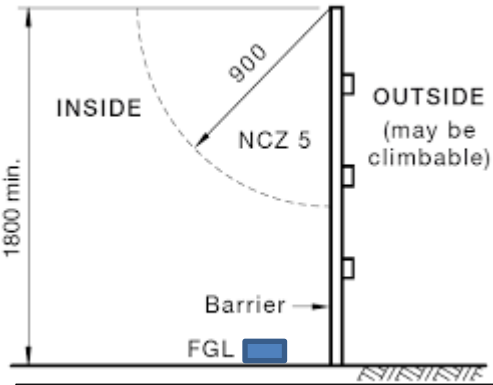
2. **Defect/non-compliance identified**

The effective height of the boundary fences was not 1800 mm or more. The height of the fences was measured from the top of the fence to the ground level on the pool side of the fence.

Suggested solution for rectification

Raise the boundary fences so they are 1800 mm or more in height (measured on the pool side of the fence). The height of a boundary fence is measured from the top of the fence to the ground level on the pool side of the fence. Where there is an object such as pavers, raised garden bed or decking etc within 500 mm of the boundary fence, the 1800 mm in height is measured to that object and not the ground. Alternatively, any ground or surface object on the pool side of the fence could be lowered or removed (500 mm or more away from the fence) so that the 1800 mm effective height of the fence is achieved. If the fence height is increased, the required 900 mm NCZ 5 is required to be measured from the top of the fence so that any fence extension construction provided on top of the existing fence must not have footholds greater than 10 mm wide within 900 mm of the top of the extended fence. The new 1800mm boundary fence height must run for 900mm past each intersection with the internal barrier.



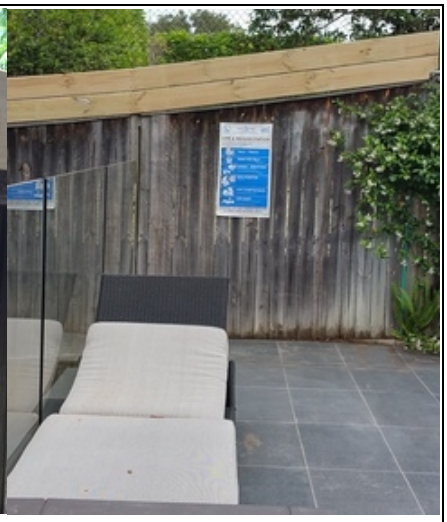



Steps, retaining wall or change of level within 500mm of base of fence

Above is a diagram showing the NCZ5 requirements for an 1800mm boundary fence.

Below are some examples of ways to extend boundary fences.



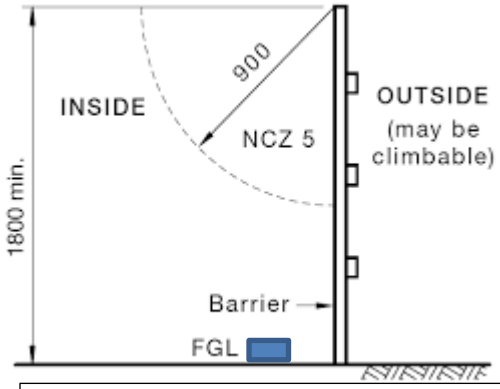


3. **Defect/non-compliance identified**

A rail was located on the inside of the boundary fence that could be used as a foothold for children to climb down into the pool enclosure.

Suggested solution for rectification

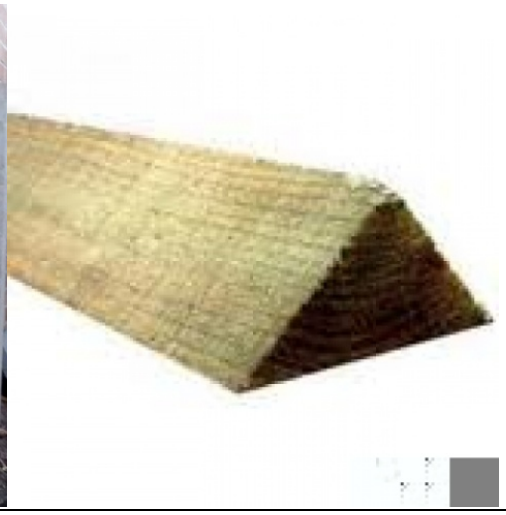
Shield the rail from within the 900 mm Non-Climb Zone (NCZ 5). The NCZ 5 is a 900 mm arc measured from the top of the fence and is quarter-circle in shape. If the rails are to be shielded, the minimum angle or splay of the shielding is 60 degrees. There is specifically designed 60-degree sections of timber that can be attached to the top surface of the rail.

Steps, retaining wall or change of level within 500mm of base of fence

Above is a diagram showing the NCZ5 requirements for an 1800mm boundary fence.

Below are some examples of 60-degree sections of shielding that can be attached to exposed rails.



4. **Defect/non-compliance identified**

There were gaps in the boundary fence greater than 100 mm. Gaps greater than 100 mm are not permitted in or under the pool fence. Sections of the boundary fence were missing palings. There was also a section of the boundary fence that was leaning over and had broken away from the neighbouring section of fence, creating a larger gap.

Suggested solution for rectification

Reduce all gaps to less than 100 mm using permanent and structurally adequate construction. Repair or replace the sections of damaged fence so the structural integrity of the fence is maintained.

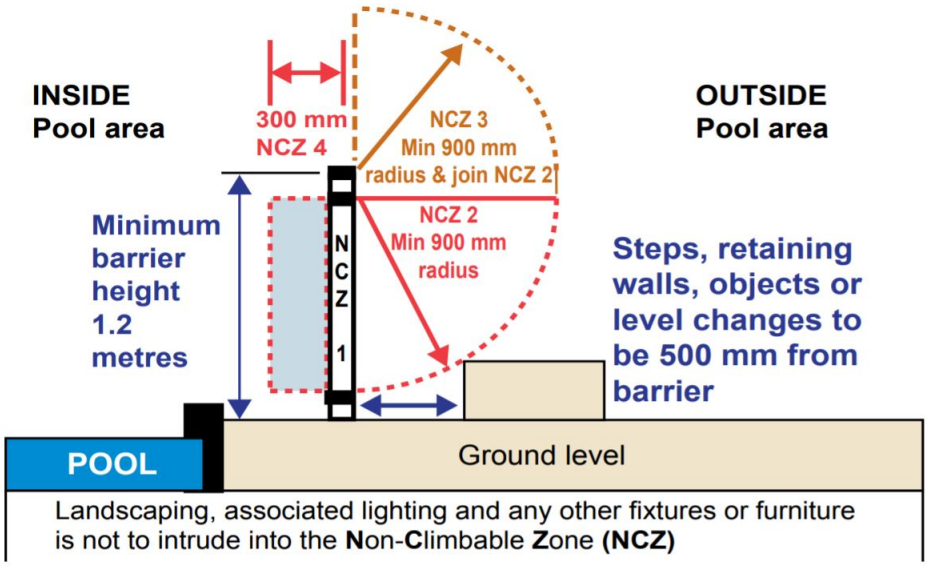



5. **Defect/non-compliance identified**

Vegetation was within the 900 mm Non-Climb Zone (NCZ) on the outside of the pool fence. The 900 mm NCZ is required to be kept clear so that children cannot use any object close to the fence to assist them to climb into the pool enclosure.

Suggested solution for rectification

Prune or remove the vegetation so that no branches or fork sections are within the 900 mm NCZ. The NCZ is a 900 mm arc measured from the top of the fence and extends upward above the fence (ie the 900 mm NCZ is semi-circular in shape).



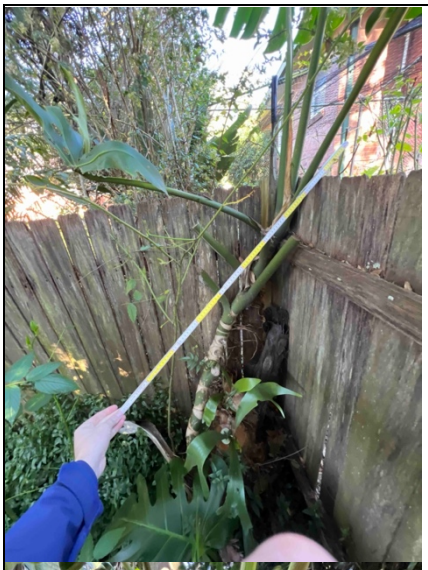
Above is a diagram showing the NCZ requirements for an internal barrier less than 1800mm high.

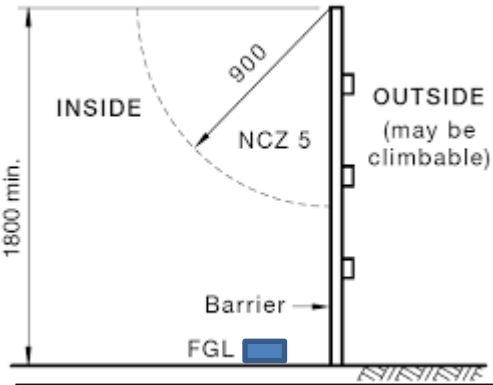
6. **Defect/non-compliance identified**

Vegetation was located on the inside of the boundary fence that could be used as a foothold for children to climb down into the pool enclosure.

Suggested solution for rectification

Remove or prune the vegetation so that no climbable branches or fork sections are within the 900 mm NCZ 5.



Steps, retaining wall or change of level within 500mm of base of fence

Above is a diagram showing the NCZ5 requirements for an 1800mm boundary fence.

7. **Defect/non-compliance identified**

There was a gap greater than 100 mm between the boundary fence and the internal pool fence where the two fences intersected.

Suggested solution for rectification
Reduce the gap to less than 100 mm using permanent and secure construction. Eg a timber paling.

8. **Defect/non-compliance identified**
The pool gate did not self-close and self-latch because the gate strike was not correctly aligned with the post latch.

Suggested solution for rectification
Adjust the latch mechanism so the gate self-closes and self-latches from any open position, including when the gate is resting on the latch.

9. **Defect/non-compliance identified**
There were gaps under the internal pool fence greater than 100 mm. Gaps greater than 100 mm are not permitted in or under the pool fence.

Suggested solution for rectification

Reduce all gaps under the pool fence to less than 100 mm using permanent and structurally adequate construction.




Further, it is advised that with respect to the above matter(s), it is the certifier's opinion that the swimming pool constitutes a significant risk to public safety. In this regard, Council is required to be advised of this significant public risk and a copy of the defect notice will be forwarded to council immediately as required by Clause 22E (f) of the Swimming Pools Act 1992.

Pursuant to clause 18BA of the Swimming Pools Regulation, a Certificate of Non-compliance has also been issued by the certifier from the NSW Register of Swimming Pools, as a consequence of the inspection revealing the requirements for the issue of a Certificate of Compliance had not been met. Such Certificate of Non-compliance is enclosed.

NOTE: The swimming pool barrier was assessed using the following legislation and criteria: The Swimming Pools Regulation 2018, the Building Code of Australia and AS 1926.1 – 2012.

Should you have any further enquiries in relation to this matter, please do not hesitate to

contact the certifier, Matthew Wheeler, during normal office hours Monday to Friday.

Yours faithfully

Matthew Wheeler

Jenny Wren Pool Certification

0416 517 577