



## NOTICE OF SWIMMING POOL NON-COMPLIANCE

(Clause 22E, Swimming Pools Act 1992)

**Notice Date:** 17 November 2023

**Premises to which this notice relates:** 102 Bantry Bay Road Frenchs Forest.

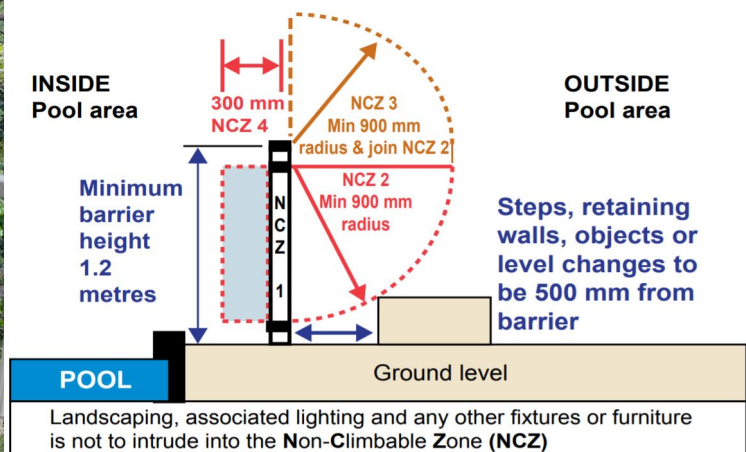
**Pool Installation Description:** In-ground concrete swimming pool

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 17 November 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.

<p><b>1. Defect/non-compliance identified</b></p> <p>A Shrub was within the 900 mm Non-Climb Zone (NCZ 2 &amp; 3) 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.</p> <p><b>Suggested solution for rectification</b></p> <p>Prune or remove the Shrub so that no climbable branches 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).</p> <p>Alternatively, if the section of barrier opposite the climbable vegetation is replaced or extended so the barrier is 1800mm or more in height the climbable vegetation could remain as it is. AS 1926.1 – 2012 (the Australian Standard used to assess your barrier) has a section (2.2.3) that allows internal barriers greater than 1800mm high to NOT require any Non Climb Zones (NCZ's).</p>
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Above is a diagram showing internal barriers less than 1800mm high non climb zones.

## 2. Defect/non-compliance identified

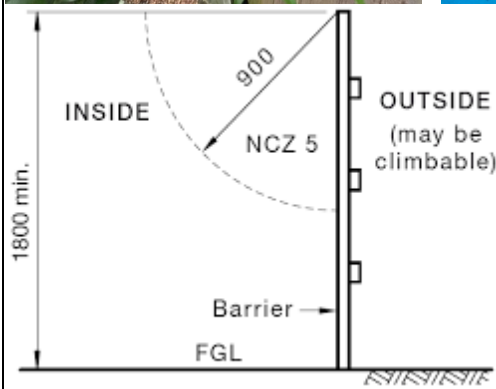
A hedge was located on the inside of the boundary fence that could be used as a foothold for children to climb down into the pool enclosure.

### Suggested solution for rectification

Remove or prune the hedge so that no branch is within the 900 mm NCZ 5.

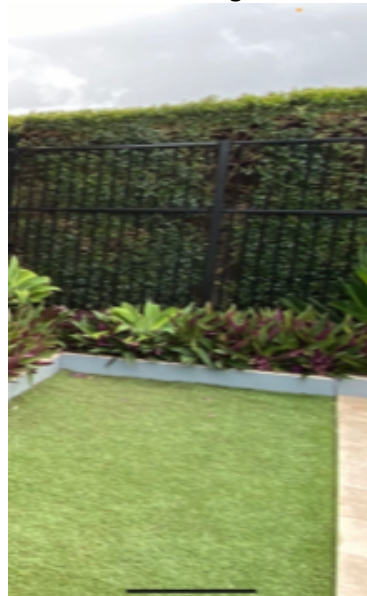
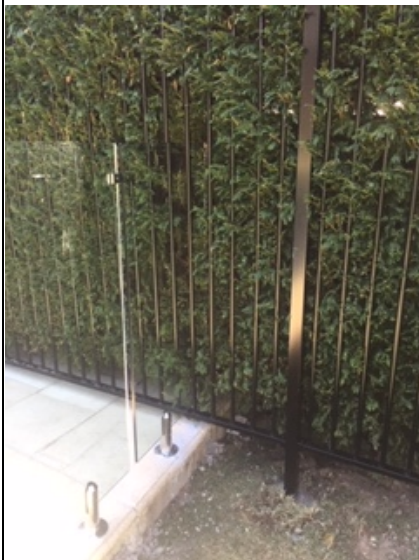
Alternatively, if a new 1800mm high internal barrier is installed between the vegetation and the swimming pool the climbable vegetation could remain as it is. AS 1926.1 – 2012 (the Australian Standard used to assess your barrier) has a section (2.2.3) that allows internal barriers greater than 1800mm high to NOT require any Non Climb Zones (NCZ's). See example photographs below.





Boundary barrier non climb zone requirement

Below are some examples of newly installed 1800mm high internal barrier for vegetation



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

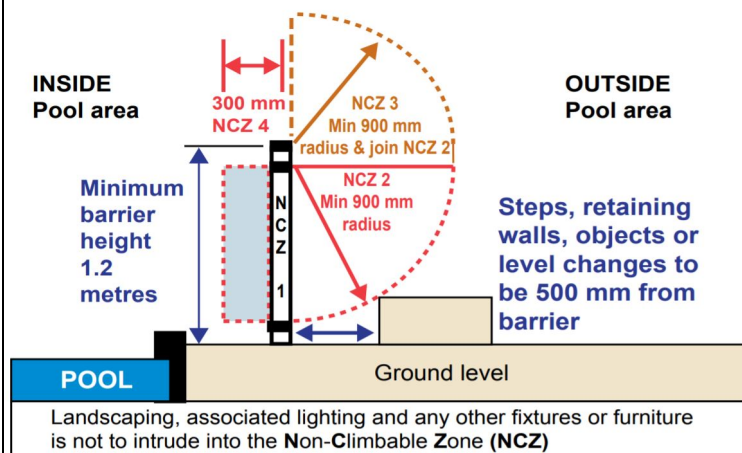
A section of the internal pool fence was not 1200 mm or more in height as the garden bed/ rockery at the base of the fence has reduced the effective height of the fence.

### **Suggested solution for rectification**

Increase the height of the fence so that the effective height is 1200 mm or more measured on the outside of the fence. Alternatively, the garden bed on the outside of the fence can be removed or



lowered so the 1200 mm can be measured to the ground or base of the fence. The height of the fence is measured from the top of the fence to the ground level on the outside of the fence. Where there is an object within 500 mm of the pool fence such as garden beds etc, the 1200 mm height is measured to the surface of the garden and/or garden bed edging boards etc and not the base of the fence. If raising the fence is the option used, the gap under the fence must not exceed 100 mm. In most cases, the fence will need to be raised to a height that will create a gap greater than 100 mm under the fence. In such cases, it is more effective to raise the fence and then close the gap (that is created) by using permanent and secure construction under the pool fence panels rather than replacing the entire fence with higher fence panel.



Internally; barrier height requirements

Below are some examples of increasing fence height



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

There was a gap 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 does not constitute a significant risk to public safety.

A copy of this notice will be forwarded to the local authority for the area in which the swimming pool is situated 6 weeks after the date of inspection, being 29 December 2023 (or such other time as may be prescribed by the regulations) if a certificate of compliance is not issued for the swimming pool before that time.

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, Jennifer Rose, during normal office hours Monday to Friday.

Yours faithfully

Jennifer Rose

*Jenny Wren Pool Certification*  
0416 517 577