



NOTICE OF SWIMMING POOL NON-COMPLIANCE
(Clause 22E, Swimming Pools Act 1992)

Notice Date: 16 September 2019

Premises to which this notice relates: 94 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 16 September 2019.

Such inspection was undertaken to determine whether the swimming pools 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 pools 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.

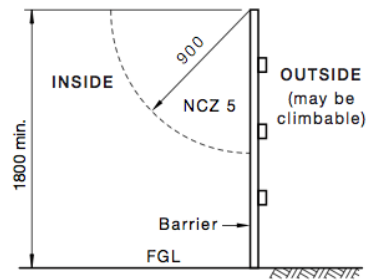
1. Defect/non-compliance identified

The boundary fence rails and timber and pot feature were 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 fence rails and remove the timber and pot feature from within the 900 mm Non-Climb Zone (NCZ 5). Alternatively, the boundary fence could be raised to achieve the required 900 mm Non-Climb Zone (NCZ 5) clearance from the object. The NCZ 5 is a 900 mm arc measured from the top of the fence and is quarter-circle in shape.

See diagram below for NCZ 5



(a) Boundary barrier 1800 mm min.

2. Defect/non-compliance identified

There was a gap greater than 100 mm between the pool fence and adjoining garage where the fence and building intersected. There is a old gate that opens into the pool area and is not serviceable. The gate is held closed by besser blocks to prevent entry and temporarily close the gap.

Suggested solution for rectification

Reduce the gap to less than 100 mm using permanent and secure construction. Alternatively, the gate could be repaired so it is functional and the gap between the gate and the fence reduced to less than 100 mm.



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

The effective height of the boundary fence was not 1800 mm or more. In some sections a garden bed had been built within 500 mm of the fence. The height of the fence was measured from the top of the fence to the surface of the ground or garden bed on the pool side of the fence. The fence also had climbable rails on the pool side of the fence.

Suggested solution for rectification

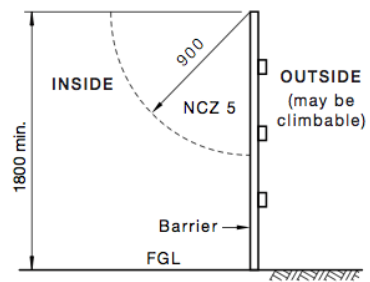
Replace the boundary fence with a boundary fence that has a height greater than 1800 mm when measured to the surface of the deck, or alternatively;

Raise the fence so it is 1800 mm or more in height above the surface level of the ground/ garden bed; or

The garden bed could be lowered so that the effective height of the fence is 1800 mm; or

The portion of the deck within 500 mm of the fence could be removed so that the 1800 mm effective height of the fence can be measured to the ground and not onto the surface of the soil.

Boundary fences must be provided with a 900 mm Non-Climb Zone (NCZ 5) which is located at the top of the fence (on the pool side of the fence). The boundary fence must be provided with a 900 mm NCZ 5 and any fence extension construction provided on top of the existing fence or rails etc (that have footholds greater than 10 mm wide) must not be within the 900 mm NCZ 5. Any climbable fence component within the 900 mm NCZ 5 will need to be either lowered removed or shielded to ensure that children cannot use any climbable fence component to assist them to climb into the pool enclosure.



(a) Boundary barrier 1800 mm min.



Example of 60 degree wedge on fence rails

4. Defect/non-compliance identified

There was a window in the wall of the adjoining building that formed part of the pool's child resistant barrier. This window was not provided with a security screen or bars or a device to permanently restrict the windows from being opened more than 100 mm.

Suggested solution for rectification

Upgrade or modify the window so it complies with one of the following:

- a) Be provided with metal bars having a spacing not greater than 100 mm which are secured to the building with fasteners that can only be removed by the use of a tool; or
- b) Be provided with a metal security screen having openings not greater than 100 mm which are secured to the building with fasteners that can only be removed by the use of a tool; or
- c) Be prevented from opening to a width not greater than 100 mm by means of a device which has fasteners that can only be removed by the use of a tool.



5. Defect/non-compliance identified

There was a door that opened into the pool enclosure. Doors are not permitted to open directly into an outdoor pool enclosure.

Suggested solution for rectification

Separate the residential building from the pool by providing a 1200 mm high compliant pool fence between the pool and the building. The new fence can be provided with a

gate however the gate must swing outward away from the pool and must be positioned at an adequate distance from the door to allow it to swing outward. The new pool fence and gate must be positioned so that there is no climbable object within 900 mm of the gate, including any climbable object on the door if the door swings or slides within the 900 mm Non-Climb Zone (NCZ) of the fence and gate.



6. Defect/non-compliance identified

The pool was not provided with a resuscitation sign. Swimming pools are required to be provided with a compliant resuscitation sign.

Suggested solution for rectification

Provide a new resuscitation sign that says all of the following:

- YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL.
- POOL GATES MUST BE KEPT CLOSED AT ALL TIMES: and
- KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 mm CLEAR OF THE POOL FENCE AT ALL TIMES.

The sign must also have:

- A simple flow sequence of illustrated drawings (with keywords only in bold print) showing CPR techniques for infants, children and adults.
- A statement to the effect that formal instruction in resuscitation is essential.
- The name of the teaching organisation or other body that published the sign: and
- The date of its publication.

The resuscitation sign must be located in a position visible from within the pool enclosure and the sign must be in good condition and legible from a distance of three (3) metres.

7. Defect/non-compliance identified

There was a gap greater than 100 mm between the boundary fence and the house

Suggested solution for rectification

Reduce the gap to less than 100 mm using permanent and secure construction.

Alternatively, the fence can be moved closer to the shed so that the gap is reduced to less than 100 mm.



8. Defect/non-compliance identified

The hinges on the gate were too close together. The top surface of the top hinge must be 900 mm or more from the top surface of the bottom hinge.

Suggested solution for rectification

Move the hinges further apart or alternatively, some modern hinges can be fitted with a 60° hinge cap that could be fitted onto one or both of the hinges.

Click this link to view a diagram showing the requirements for the minimum distance required between hinges. <https://goo.gl/2A7obF>





9. Defect/non-compliance identified

There were gaps greater than 100 mm under the pool gate. Gaps greater than 100 mm are not permitted in or under the pool barrier.

Suggested solution for rectification

Reduce the gaps under the gate so they are less than 100 mm by using permanent and structurally adequate construction.

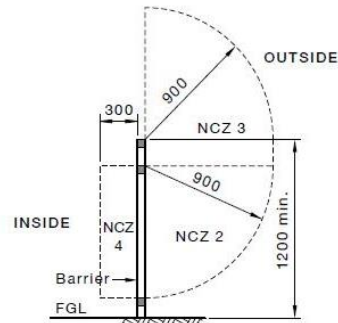


10. Defect/non-compliance identified

the rails on the new boundary fence near garage gate 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. See diagram below for internal NCZ's

Suggested solution for rectification

Remove or relocate or shield the rails on boundary fence near garage gate 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.



11. 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 Trees so that no climbable branches are within the 900 mm NCZ 5.



12. Defect/non-compliance identified

The pool gate swung inward toward the pool. All pool gates must swing outward away from the pool.

Suggested solution for rectification

Modify the pool gate so that it swings outward, away from the pool. The gate must self-close and self-latch from any open position. Any open position includes when the gate strike is resting against the latching mechanism.



13. **Defect/non-compliance identified**
All 4 pool gates did not self-close and self-latch.

Suggested solution for rectification

The reason the gates did not self-close and self-latch was because each gate had one or more of the following defects:

- The latch on the gate post was not correctly aligned with the strike on the gate;
- The gate post was not stable enough to hold the gate in the correct position;
- The gate hinges or return spring did not have enough tension to close the gate;
- There was no latch
- All pool gates must self-close and self-latch from any open position, including when the gates are resting on their latches.





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.

It is requested that the above matter(s) be attended to by 28 October 2019. If the work is not completed by this date, Council will be informed that the defects have not been rectified with the required 6 week time period and a copy of this defect letter will be forwarded to council as required by Clause 22E of the Swimming Pools Act 1992. Please carry out the work before the 28 October 2019 and notify the certifier upon such work being completed in order that a reinspection may be carried out.

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 2008, 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