



## NOTICE OF SWIMMING POOL NON-COMPLIANCE

(Clause 22E, Swimming Pools Act 1992)

**Notice Date:** 09 February 2026

**Premises to which this notice relates:** 36 Barnes Road French's 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 09 February 2026.

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**

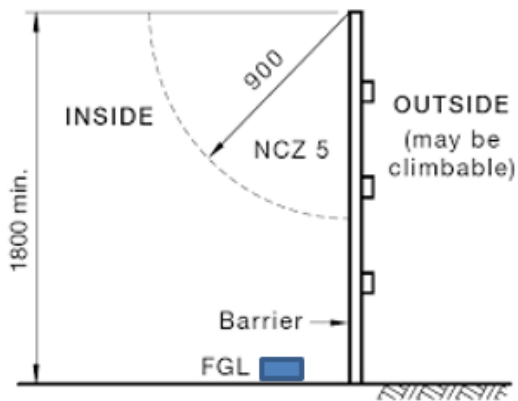
The effective height of the boundary fences was not 1800 mm or more. The height of the fences was measured from the top of the fence to the ground level on the pool side of the fence.

### **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.



**Current Australian Standard (AS 1926.1 – 2012)**



**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.

See link below to Department of Fair-Trading website 28 March 2022 regarding the 500mm 'exclusion zone' for objects around swimming pool barriers applies to any pool boundary

<https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers/practice-advice2/swimming-pool-certification/pool-barrier-as-clarification-clause-2.3.1-applies-to-boundary-fences>

Note: The boundary fences must run at the 1800mm in height for 900mm past the intersection with the internal barrier.

See below examples of ways to raise boundary fencing with small fence extensions.



## 2. Defect/non-compliance identified

There was a gap under the boundary 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 to less than 100 mm using permanent and structurally adequate construction.

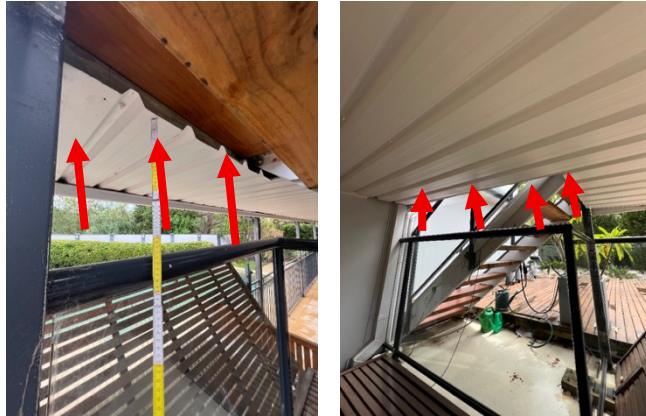


**3. Defect/non-compliance identified**

There were gaps in the internal pool fence greater than 100 mm. Gaps greater than 100 mm are not permitted in or under the pool fence. There were some gaps between the handrail and roof that need restricting.

**Suggested solution for rectification**

Reduce all gaps to less than 100 mm using permanent and structurally adequate construction. Eg perspex or similar.



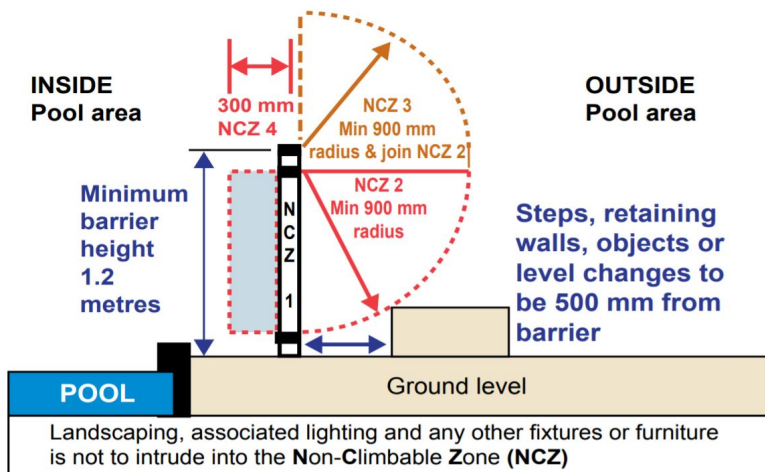
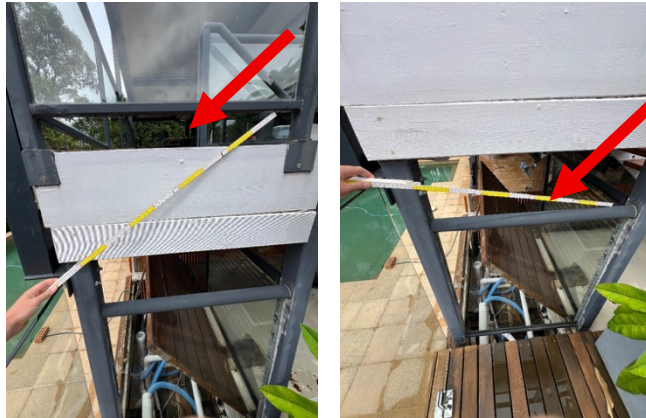
**4. Defect/non-compliance identified**

An adjoining rail/ledge 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 shield the Adjoining rail/ledge 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. Alternatively, the fence panel may be able to be raised so that the top of the fence is greater than 900 mm above the however this is only achievable if the gap under the fence panel remains less than 100 mm.

Perspex or similar could be attached to remove the foothold capability.



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

See below examples of ways to shield climbable ledges with perspex or similar.



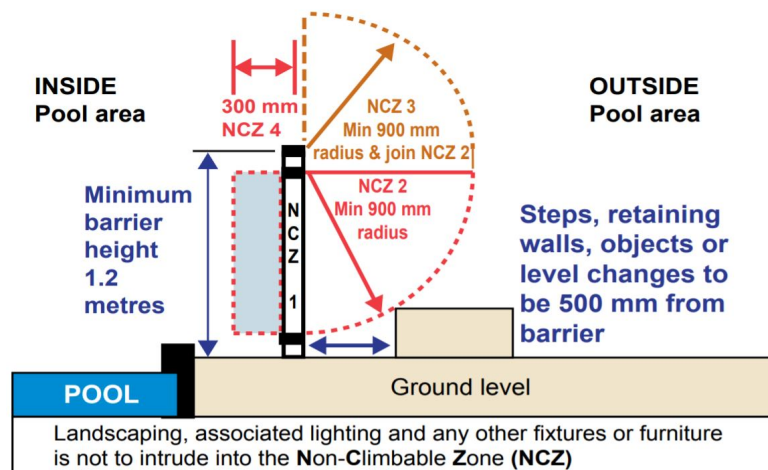
## 5. Defect/non-compliance identified

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 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).

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). The new internal must be situated at least 500mm inside the property's boundary.



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

See below examples of extending internal barriers to <1800mm.



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

Top of lights, hose reels and clips 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. Any projections/indentations greater than 10mm wide are considered to be climbable and not permitted within a NCZ.

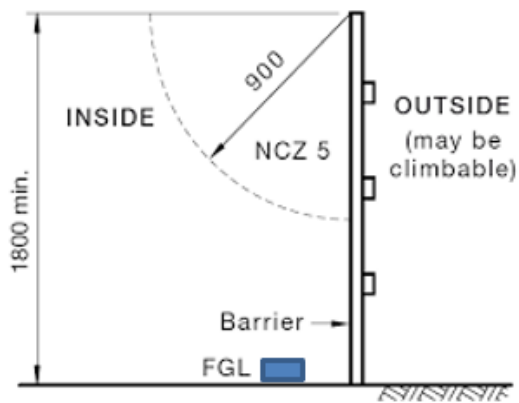
**Suggested solution for rectification**

Remove the Top of lights, hose reels and clip from within the 900 mm Non-Climb Zone (NCZ 5). Alternatively, the objects could be shielded, once an object or surface has a sharp 60d degree angle attached they are no longer considered climbable. The NCZ 5 is a 900 mm arc measured from the top of the fence and is quarter-circle in shape.





**Current Australian Standard (AS 1926.1 – 2012)**



■ 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**

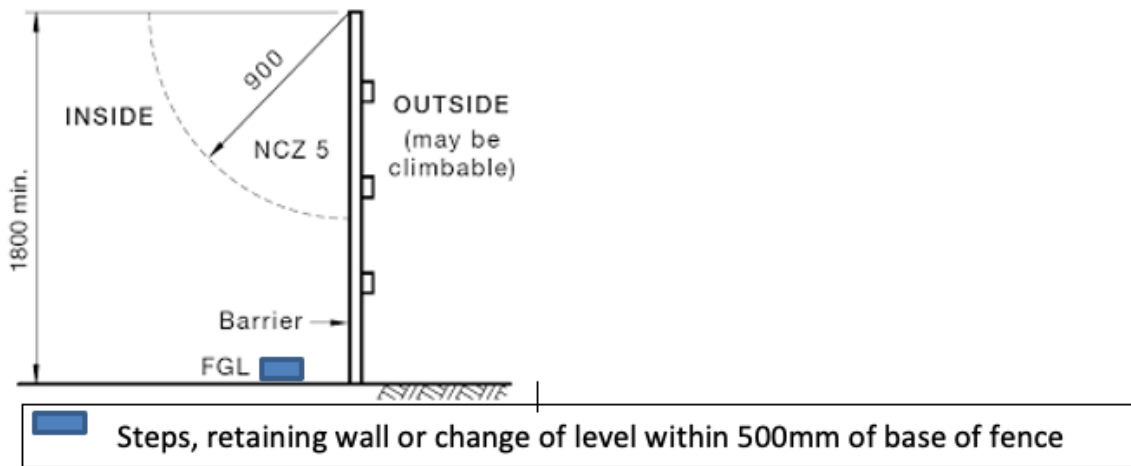
Vegetation was located on the inside of the boundary fence that could be used as a foothold for children to climb down into the pool enclosure.

**Suggested solution for rectification**

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



**Current Australian Standard (AS 1926.1 – 2012)**



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

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 23<sup>rd</sup> March 2026 (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 accredited pool 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