NOTICE OF SWIMMING POOL NON-COMPLIANCE

(Clause 22E, Swimming Pools Act 1992)

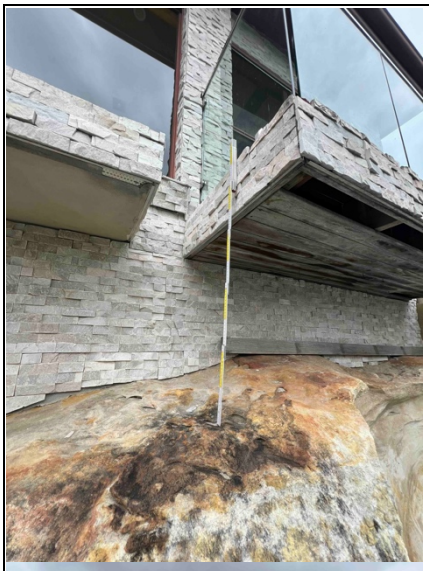
Notice Date: 11 December 2025
Premises to which this notice relates: 53 Haigh Avenue Belrose.
Pool Installation Description: In-ground concrete swimming pool

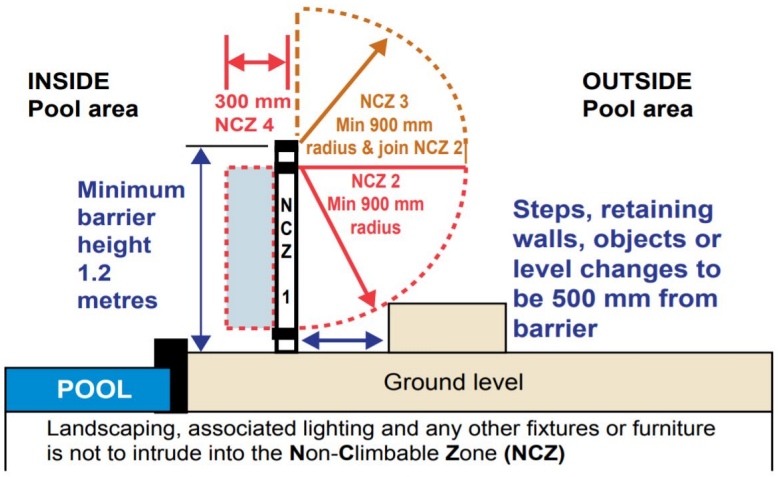
Further to your request for an inspection of the swimming pool barrier installation at the above premises, it is advised that an accredited pool certifier undertook an inspection on 11 December 2025.

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 balcony's over the pool were 1800 mm or more from the ground however the height between the balcony floor and sandstone rock was less than 1800 mm. The height of the floor of the balcony must be 1800 mm or more from any object greater than 10 mm wide below that could be used by children to climb down into the pool enclosure. **Suggested solution for rectification** Lower/remove the rock below the balcony so there is at least an 1800mm fall poolside. Alternatively, the balustrade on the balcony could be increased in height so that it is 1200 mm or more in height and ensure it becomes a compliant pool barrier.





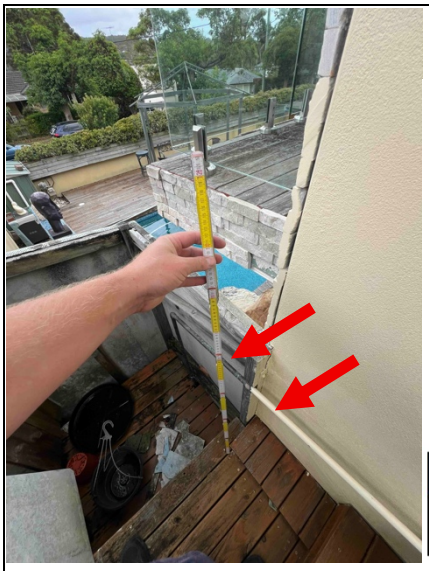
Above is a diagram showing the NCZ requirements for an internal barrier less than 1800mm high.

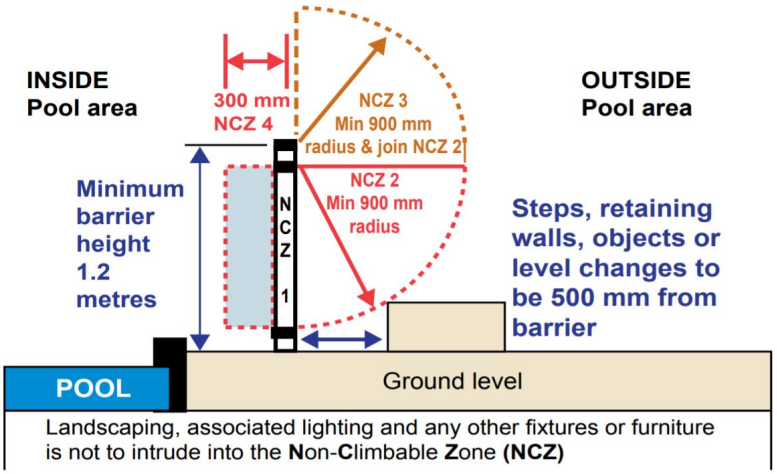
2. **Defect/non-compliance identified**

Objects were within the 900 mm Non-Climb Zone (NCZ) outside 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

Relocate/shield all climbable objects outside the 900 mm NCZ so they cannot be used by children to climb over the fence and into the pool enclosure. 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 semicircular in shape).





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

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

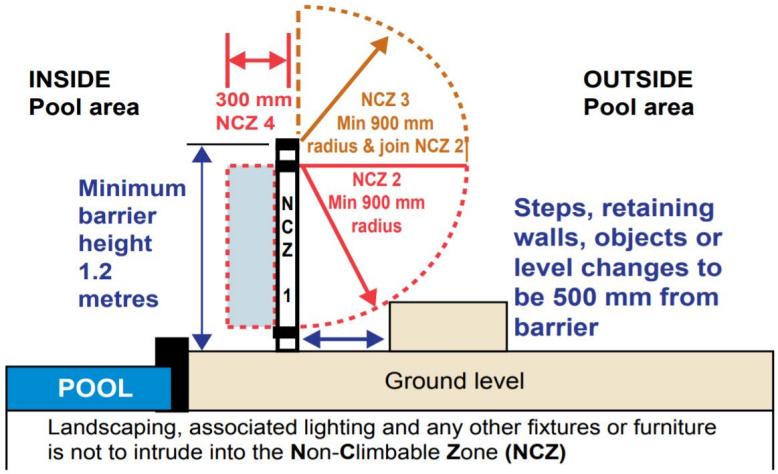
The internal pool fence was not 1200 mm or more in height as the stumps at the base of the fence has reduced the effective height of the fence.

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 stumps 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.







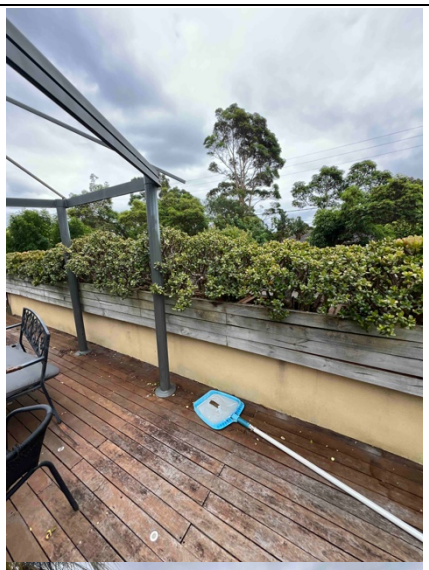
Above is a diagram showing the NCZ requirements for an internal barrier less than 1800mm high.

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

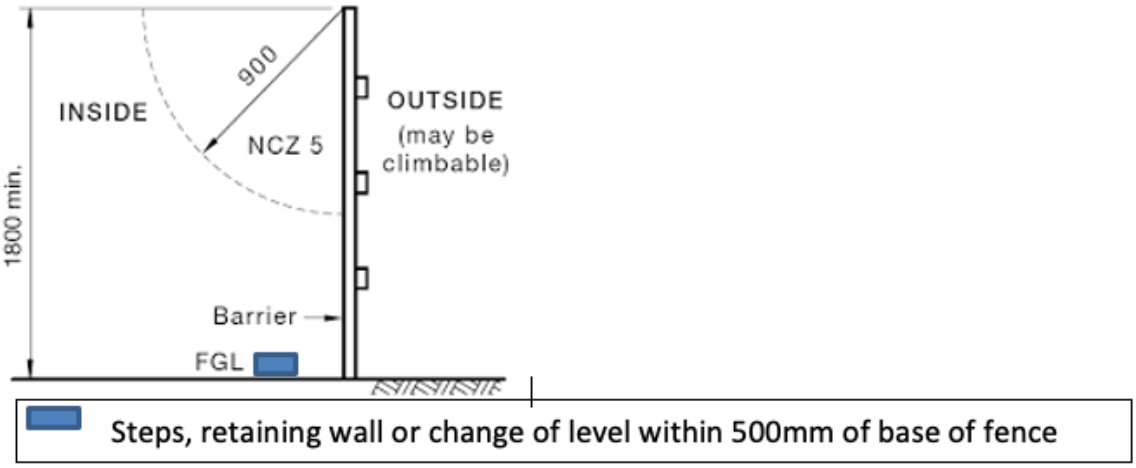
The effective height of the boundary fences was not 1800 mm or more. The height of the fences was measured from the top of the fence to the ground level on the pool side of the fence.

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)



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.

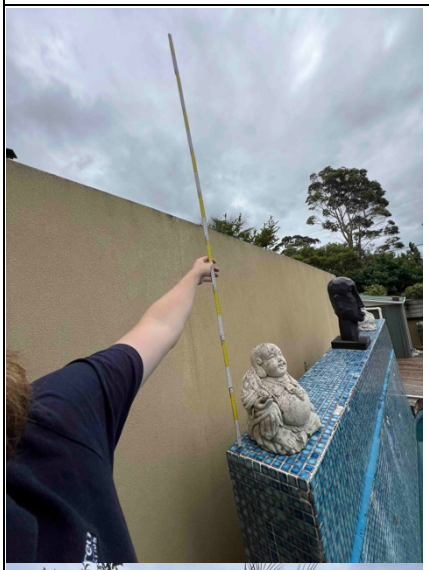
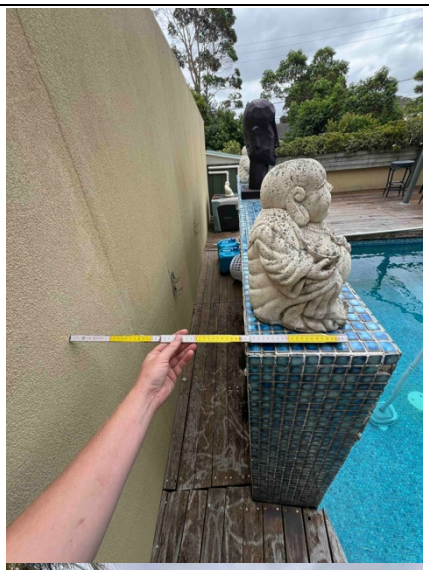
5. **Defect/non-compliance identified**

The effective height of the boundary fence was not 1800 mm or more as a pool box/heater and water feature had been erected within 500 mm of the fence. The height of the fence was measured from the top of the fence to the surface of the objects on the pool side of the fence.

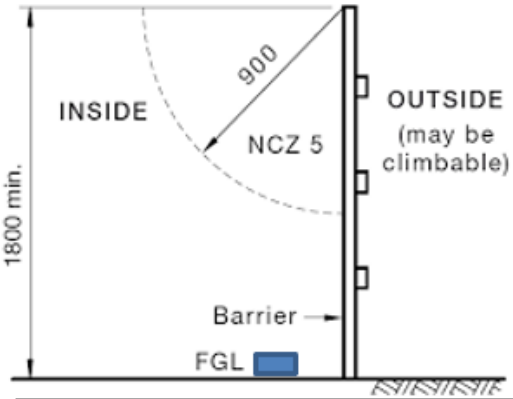
Suggested solution for rectification

The boundary fence must be 1800 mm or more in height and can be rectified by either:
Raising the fence so it is 1800 mm or more in height above the surface level of the pool box/heater and water feature STCA: or
The pool box/heater and water feature could be lowered so that the effective height of the fence is 1800 mm: or
The portion of the pool box/heater and water feature 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 pool box/heater and water feature:
The pool box/heater and water feature could be increased in height to 1800mm from pool box/heater and water feature so the fall deterrent is the same as an 1800mm boundary fence.
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 down into the pool enclosure.

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

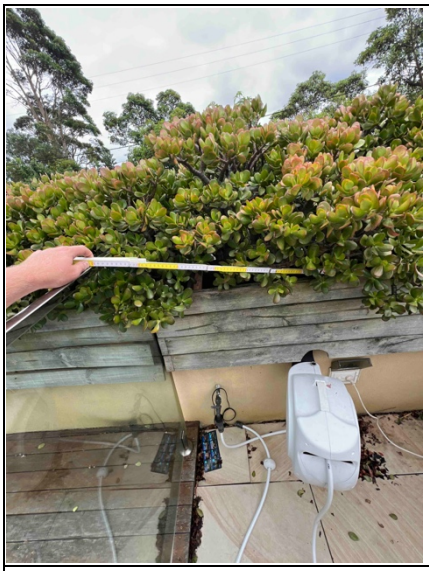
See below examples of 1800mm pool boxes.

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

The internal pool fence terminated at a raised garden bed in such a manner that could allow children to climb along the garden bed wall and into the pool enclosure.

Suggested solution for rectification

Modify the pool fence to prevent children from being able to climb around the end of the pool fence. The pool fence is to either extend 900 mm outward, cantilevering over the garden bed or return 900 mm either way along the retaining wall. With the side return options, a solid fence panel must be fastened to the outer edge of the retaining wall to prevent children from using the bottom rail or top of the retaining wall as a foothold. If the panel cantilevers over the retaining wall, a solid panel is required as an exposed bottom rail may still allow children to use the rail to climb around the pool fence and into the pool enclosure.

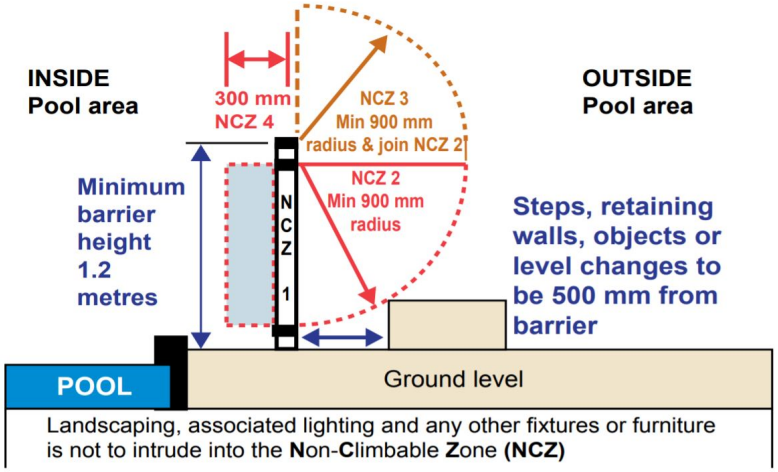


7. **Defect/non-compliance identified**

A hose reel and tap were 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 hose reel and tap 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.

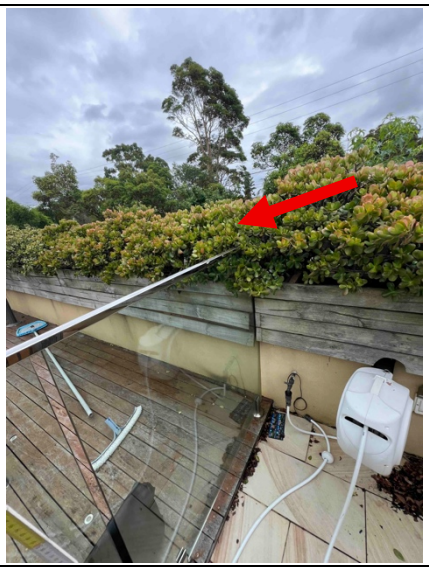


Above is a diagram showing the NCZ requirements for an internal barrier less than 1800mm high.

8. **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.



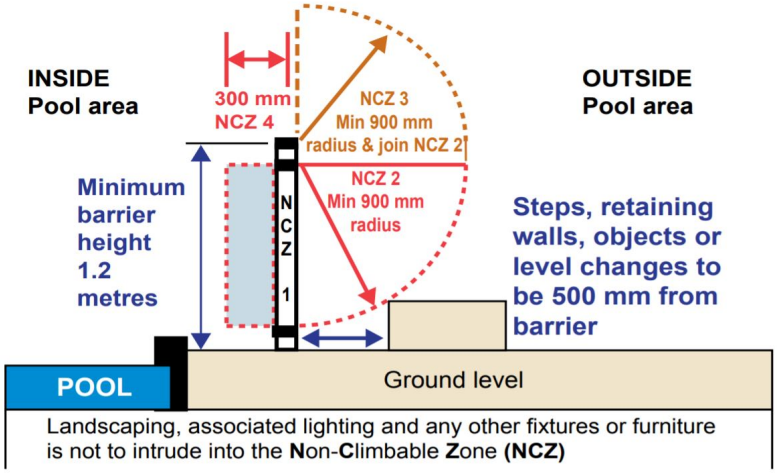
9. **Defect/non-compliance identified**

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

Suggested solution for rectification

The window sill bricks must not be able to be used as a foothold. The sill bricks can be either:

- Reduced to less than 10 mm wide; or
- The upper surface of the sill bricks must have a very steep angled top surface so children cannot gain a grip on that surface. The upper surface must have an angle greater than 60° to be considered not a foothold. The climbable object can be provided with any permanent object (such as a purpose-made timber block) that is securely fastened to the upper surface of the sill bricks which effectively creates a new angled top surface which must be greater than 60°; or
- The sill bricks can be fully shielded with Perspex or similar so the upper surface cannot be accessed by young children; or
- The fence can be relocated away from the sill bricks so they are outside the NCZ; or
- The fence can be raised in height to the point where the sill bricks are effectively outside the NCZ.



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

10. **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 ACTIVELY SUPERVISED WHEN USING THIS SWIMMING POOL.

•POOL GATES MUST BE KEPT CLOSED AT ALL TIMES: and

•KEEP ARTICLES, OBJECTS AND STRUCTURES 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.

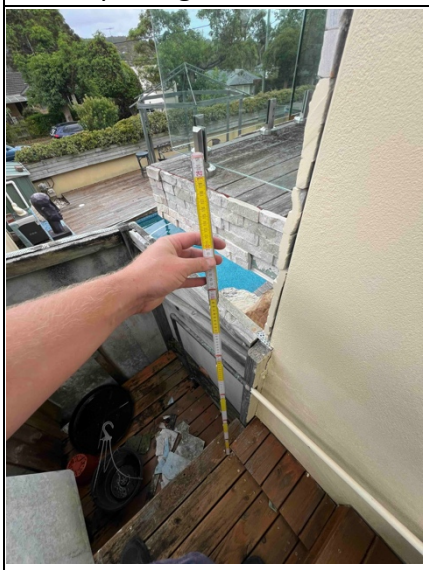
The resuscitation sign must be located in a position visible from within the pool enclosure and the sign must be in good condition and legible from a distance of three (3) metres.

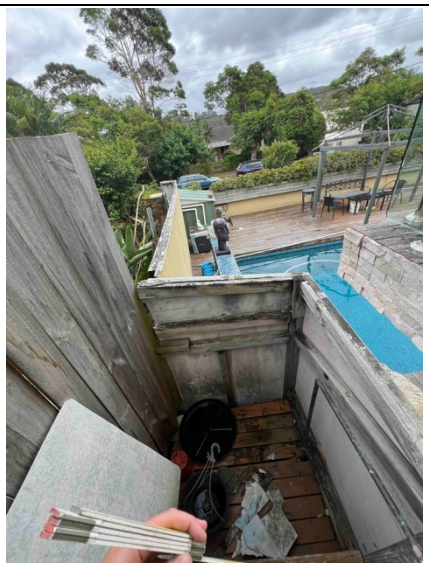
11. **Defect/non-compliance identified**

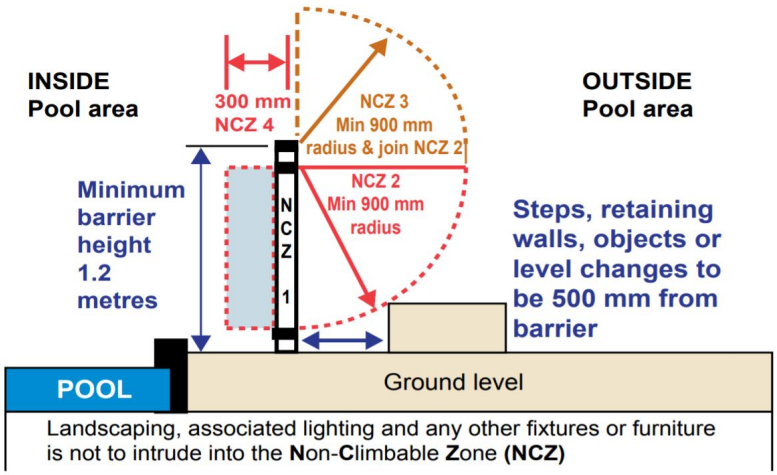
The effective height of the internal pool fence was not 1200 mm or more in height.

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. 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, the 1200 mm height is measured to that object and not the ground. Alternatively, any object on the outside of the fence that is within 500 mm of the fence can be lowered or removed so the 1200 mm can be measured to the ground. 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.







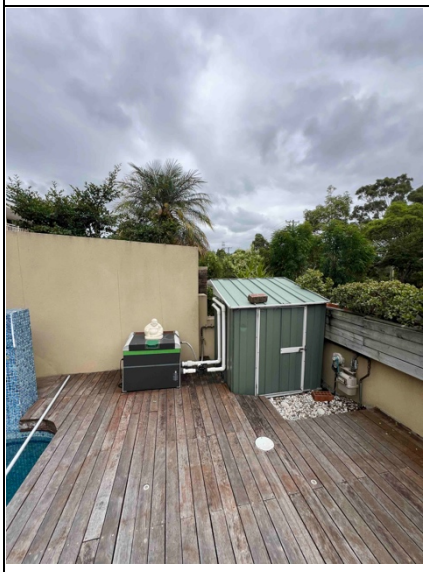
Above is a diagram showing the NCZ requirements for an internal barrier less than 1800mm high.

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

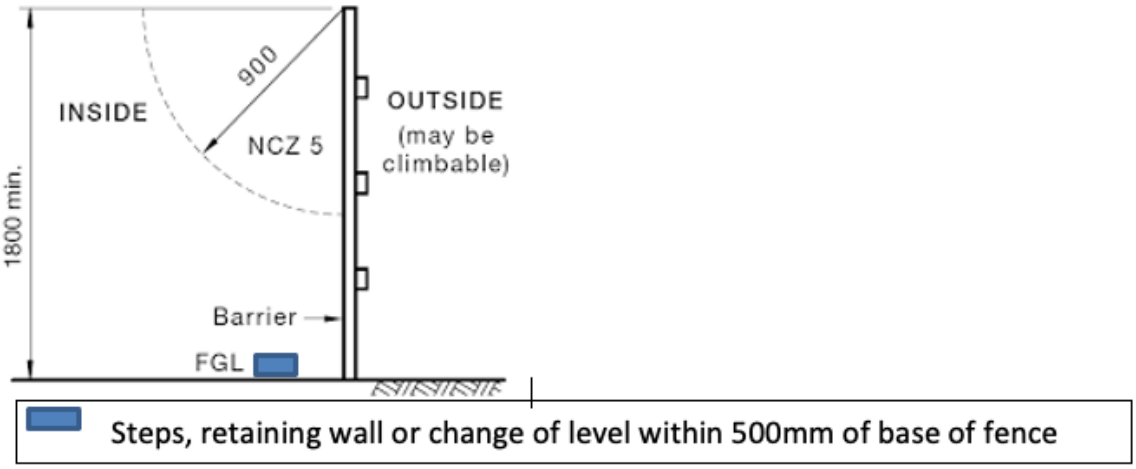
Objects were located on the inside of the boundary fence that could be used as a foothold for children to climb down into the pool enclosure. Any surface, indentation or projection

greater than 10mm is not permitted inside the boundary fence 900mm NCZ5.

Suggested solution for rectification
Remove or shield the objects 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.



Current Australian Standard (AS 1926.1 – 2012)



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

13. **Defect/non-compliance identified**
The pool gate did not self-close and self-latch because the gate hinges did not have enough tension to close the gate.

Suggested solution for rectification
Adjust the hinges to increase the closing tension on the gate. The hinges have an internal spring that can be adjusted with an Allen key or screwdriver (by removing the top cap). The hinges must be adjusted so the gate self-closes and self-latches from any open position. Any open position includes when the gate strike is resting against the latching mechanism.

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

There was a gap in 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

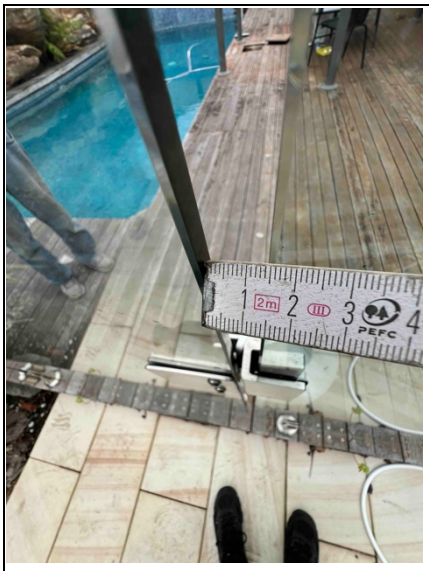
Reduce all gaps to less than 100 mm using permanent and structurally adequate construction.

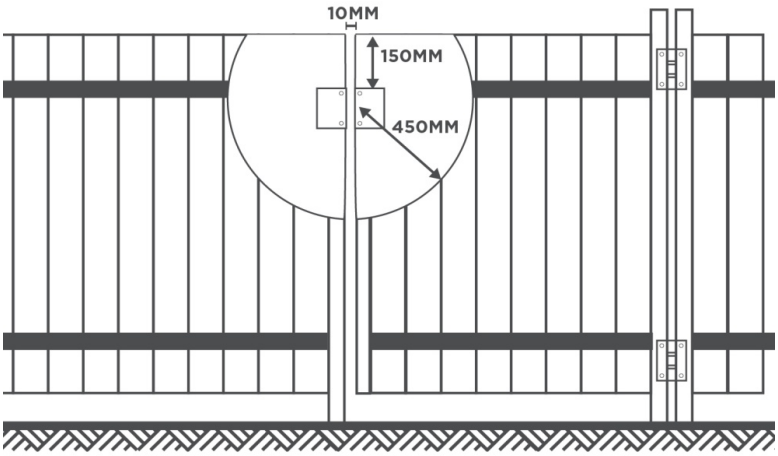
15. **Defect/non-compliance identified**

The glass gate had a gap greater than 10 mm wide where the gate adjoins the glass pool fence.

Suggested solution for rectification

Modify the gate and/or fence panel so that the gap between the gate and adjoining fence panel is less than 10 mm so that that the latch cannot be accessed from the outside of the gate.





Above is a diagram showing the required low latch shielding area.

16. **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://drive.google.com/file/d/0B-2KDQiW9l11bmVmMU95MFlnLU0/view?usp=sharing&resourcekey=0-tK4GtJceJq0HDDX45ichaw

See below examples of 60-degree caps attached to exposed hinges.

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