

# TEK-INSPECT

## Swimming Pool Safety Barrier Inspection Report

Australian Standards AS 1926

**Stripe Property**

**97 Wild street MAROUBRA**



# **SWIMMING POOL SAFETY BARRIER INSPECTION**

Client & Site Information:

COMMISSIONED BY:

Stripe Property.

INSPECTED BY:

Colin Drinkwater 0408642522

E1 BPB Certification 2382.

PROPERTY ADDRESS:

97 Wild street MAROUBRA.

DATE OF INSPECTION:

30/8/16.

TIME OF INSPECTION:

12.30PM.

PERSONS PRESENT AT INSPECTION:

Real Estate Agent or Representative:

SWIMMING POOL REGISTRATION NO:

3b9cc417.

Type of Pool:

Reinforced concrete in-ground.

Type of swimming pool safety barrier:

A metal & timber barrier is installed .

Approximate Date Build of Swimming Pool:

The approximate year the swimming pool was built is 1970-80.

Orientation:

For the purpose of identification east is assumed to be approximately at the main street frontage of the property.

In accordance with the Swimming Pools Amendment Act 2012, all swimming pools should be registered on a new state-wide online register provided by the NSW State Government . Failure to register a swimming pool may be exposed to a \$220 penalty notice. Swimming Pool owners will be required to self-assess, and state in the register that, to the best of their knowledge, their swimming pool complies with the applicable standard when registering their pool.

This Swimming Pool Safety Barrier Inspection will be conducted pursuant to and accordance with: Swimming Pools Regulation 2008 under The Swimming Pools Act 1992 Australian Standards AS 1926.1. 2012, Swimming pool safety, and AS 1926.2. 2012 Part 2: Location of safety barriers for swimming pools, It should be noted that the provisions of this Standard relate to barriers that are intended to be child resistant but not childproof, as effectiveness of the barrier is very much dependent on its location, installation and maintenance.

## **The Swimming Pools Act**

In NSW, private swimming pool safety is legislated by the Swimming Pools Act 1992 (Swimming Pools Amendment Act 2012) the Act and the Swimming Pools Regulation 2008 (the Regulation). The legislation also applies to movable dwellings, hotels and motels, shared and non-shared swimming pools.

The Swimming Pools Amendment Act 2012 prescribes the fencing requirements of backyard swimming pools in NSW. Some other safety requirements are prescribed including the requirement for a CPR sign to

be displayed near the pool.

### **The Swimming Pools Regulation**

The *Swimming Pools Regulation 2008* was re-made on 1 September 2008. It calls up *AS1926.1-2012 Swimming Pool Safety, Part 1: Safety barriers for swimming pools*, which includes new requirements for non-climbable zones, mesh sizes for fences, retaining walls that form part of a barrier and balconies that project into the pool area.

On 1 May 2011 the *Swimming Pools Regulation* was amended to replace certain references to the Australian Standard 1926.1-2012 Part 1: Safety barriers for swimming pools (the standard) with references to the Building Code of Australia (BCA). The BCA in turn will refer to the Standard.

The Regulation also requires that councils and the Division have the following documentation available for public inspection at no cost:

- **Guideline 8 Cardiopulmonary Resuscitation** - This Guideline is available at the Australian Resuscitation Council website at [www.resus.org.au](http://www.resus.org.au) <<http://www.resus.org.au>>. By registering at the website visitors can access and print the guideline free of charge. Councils and others should consider subscribing as this will allow them to access an extensive range of related material.
- **AS1926.1-2012, Australian Standard Swimming Pool Safety Part 1: Safety barriers for swimming pools** - This Standard (as amended 5 May 2008) is available for purchase at [www.saiglobal.com](http://www.saiglobal.com) <<http://www.saiglobal.com/>>.
- **Building Code of Australia** - the Division and councils are required to make available a copy of the BCA for free public inspection.

### **The Australian Standard**

For copyright reasons, the Division cannot make copies of the Australian Standard, AS1926.1-2012 Swimming Pool Safety, Part 1: Safety barriers for swimming pools, available to councils or other persons or bodies.

It is important to note that the maximum requirement of the clause as it relates to the Standard is that the Division and councils allow members of the public to attend any of their respective offices, libraries or outlets to look at (but not print or take any copy away of) the Standard during ordinary business hours. If any body or agency exceeds this maximum standard, this may raise serious copyright implications for that agency or body.

If councils or others wish to allow public inspection of the Standard in any way other than by personal inspection at offices, branches or outlets, they must first contact SAI Global's copyright section for further information to ensure that copyright of the Standard is not breached. SAI Global may be contacted on (02) 82066355.

The Regulation refers to AS1926.1-2012 as published on 6 November 2012 as the relevant Standard. The 5 May 2008 version may be used for reference purposes as it corrects typographical errors and makes minor clarification to the 12 July 2007 version of the Standard.

### **Conveyancing (Sale of Land) Regulation 2010**

Amendments made to the Conveyancing (Sale of Land) Regulation 2010 mean that from 1 September 2010 contracts for the sale of land must include a warning in relation to a land owner's obligations under the Swimming Pools Act 1992 which states that:

"An **owner of a property** on which a swimming pool is situated must ensure that the pool complies with the requirements of the *Swimming Pools Act 1992*. Penalties apply. Before purchasing a property on which a swimming pool is situated, a **purchaser** is strongly advised to ensure that the swimming pool complies with the requirements of that Act."

### **Residential Tenancies Act 2010**

Section 52 of the Residential Tenancies Act provides that a landlord must comply with a landlord's statutory obligations relating to the health or safety of the residential premises. Section 52 includes the

following note:

**"Note.** *Such obligations include obligations relating to swimming pools under the Swimming Pools Act 1992.*"

This note makes it explicit that, in accordance with the Swimming Pools Act, a landlord must ensure that a swimming pool situated on a tenanted premises must be at all times surrounded by a child-resistant barrier that separates it from any residential building on the premises and from any public or private place adjoining the premises. The barrier must be designed, constructed, installed and maintained to the standards prescribed in the swimming pools legislation applicable at the time the pool was constructed or installed, unless it has been substantially altered. In this case, the standard applicable at the time the barrier was altered applies. Landlords should contact their local council in relation to the appropriate barrier standard that applies to their rental property pool.

Tenants are urged to notify landlords immediately of any damage they detect to any barrier surrounding a pool on a residential property that they are renting. Tenants are also reminded that section 64 of the Act enables tenants to carry out urgent repairs and be reimbursed up to \$1,000 for any fault or damage that causes the premises to be unsafe under certain circumstances, including if the landlord or agent cannot be contacted or does not carry out urgent repairs within a reasonable time.

Drowning is the equal leading cause of accidental death in very young children to five years of age who lack the cognitive and water skills to deal with the danger.

With over 300,000 backyard swimming pools in NSW, swimming pool safety is a vital issue that affects the whole community.

In 2012, a comprehensive review of the Swimming Pools Act 1992 was finalised (Swimming Pools Amendment Act 2012). This review identified a number of amendments designed to enhance the safety of children under the age of five years around private (backyard) swimming pools in NSW.

#### **The Swimming Pools (Amendment) Act 2012**

- ***NSW Swimming Pools Register available for use by 29 April 2013***
- ***NSW Swimming pools to be registered by owners by 29 October 2013***
- ***Pool owners require a compliance certificate before sale or lease of their property from 29 April 2016***

The Swimming Pools Amendment Act 2012 commenced on 29 October 2012 and makes a number of amendments to the Swimming Pools Act 1992: Information is provided below regarding the impact of these legislative amendments for pool owners and councils. Additional information about the staged implementation provisions is also provided below.

#### **Pool Owners:**

- Swimming pool owners are required to register their swimming pools on an online register to be provided by the NSW State Government.
- Swimming Pool owners will be required to self-assess, and state in the register that, to the best of their knowledge, their swimming pool complies with the applicable standard when registering their pool.
- There is a penalty for owners who fail to register a swimming pool (penalty notice amount of \$220).
- Swimming pool owners will be required to provide a valid swimming pool compliance certificate before being able to sell or lease a property with a pool.
- Accredited certifiers under the Building Professional Act 2005 may conduct swimming pool inspections initiated by the pool owner.
- Certificate of Compliances are valid for 3 years for a Non-shared pool and 1 year for a shared pool provided there are no changes to the pool barrier during that time.

A barrier shall be designed and constructed so that it will restrict access by young children. The barrier shall be a permanent structure. The height of a barrier within the property shall be not less than 1200 mm on the outside of the barrier.

Barriers may be constructed from any durable material, provided the barrier complies with the requirements of the Standard. A barrier other than a retaining wall, shall be vertical or lean away from the pool by not more than 15°. NOTE: A barrier should be free of sharp edges, sharp projections, and similar hazards.

## GENERAL REQUIREMENTS

General requirements according to AS 1926

Is the swimming pool considered to be high risk? **No.**

Is the swimming pool surrounded by a child resistant barrier that separates the swimming pool from any residential building present? **Yes.**

Scope of this Swimming Pool Safety Barrier Inspection Report:

General requirements according to AS 1926

The scope of this Swimming Pool Safety Barrier Inspection Report is to identify any non-compliant items regarding the swimming pool barrier and surrounds and make recommendations if any remedial or rectification work is required which was identified at the time of the Inspection. If there is anything contained within this report that is not clear or you have difficulty understanding, **please contact the inspector prior to acting on this report.**

The Swimming Pool Safety Barrier Inspection is to be inspected and certified pursuant to The Swimming Pools Act 1992, Regulation 1992, Regulation 1998, Regulation 2008. AS1926.1 - 1986, AS1926.1 - 2007 and AS1926.1 - 2012. The implementation of Regulation and Australian Standard will be dependent on the commencement or installation date of the swimming pool and the compliance, maintenance and if alterations have been made to the pool since the completion of the swimming pool.

It is important to ascertain the commencement date of the installation or construction of the swimming pool. All care and diligence will be taken to investigate the commencement or installation date of the swimming pool.

The inspection and certification to the Swimming Pool Safety Barrier will be carried out in accordance with AS1926.1 - 2012 due to the existing non compliant items pursuant to the Swimming Pools Act 1992, Regulations and Australian Standard governing Swimming Pool Safety Barriers at the time of installation or construction of the swimming pool. **Due to the internal barrier fence being below the required 1200 m height.**

## NON-COMPLIANT ITEMS

## Items

All items listed under 'Non-Compliant Items' should be rectified as soon as possible and within forty two days (42) days of the date of this Swimming Pool Safety Barrier Inspection Report, a re-attendance should be ordered when the non compliant items are rectified, before a Certificate of Compliance can be issued.

All boundary fences are required to be a min of 1800 mm in height, rectification is required . Please be aware if the fences are timber with the rails facing the pool area, the top and possibly middle rail may require a 60 degrees fillet piece to comply with NCZ 5 requirements .

The water feature to the southern wall requires removal to clear NCZ 5.

The trees and foliage to the west & southern boundary fences require removal to clear the NCZ 5 .

The green house adjacent to the garage requires removal from the pool area .

A barrier between the existing garage and the boundary may be required once the foliage has been removed .

Direct access from the window in the garage is present , this requires fixing to open no more that 100mm .

A current resuscitation sign is required within 3 meters of the shallow end of the pool area .The sign requires fixing in areas other than the pool fence.

The gate requires replacement with a requirement to self close in all positions .

The internal barrier is below the required 1200 mm fence height this requires rectification .

The stumps and existing palms to the east internal boundary require removal to clear NCZ 2

All steps, retaining walls, objects , level changes are to be minimum 500mm clear from the external of the barrier .



A minimum 300 mm clear NCZ must be maintained to the internal barrier .

The pool pump is located directly abutted up to the boundary fence . This will require modification to clear the required NCZ once the method of rectification of the boundary fences is determined .

The junction of the garage roof fascia encroaches on NCZ 3 .The fence will require a construction method to shield this area .



## Gates

Gates shall be hung so that they only swing outwards, i.e. away from the pool area.  
Gates shall be located so that the arc of operation is clear of any building or doorway.  
Gates shall have sufficient clearance to swing freely through the arc of operation.  
The opening under a closed gate shall not exceed 100 mm at any point.  
The gate frame is required to be in a sturdy state of repair .

(1) For the purposes of section17 (1) of the Swimming Pools Act 1992, the sign referred must display a notice that contains all of the following:

- (a) the words:
  - "Young children should be supervised when using this swimming pool", and
  - "Pool gates must be kept closed at all times", and
  - "Keep articles, objects and structures at least 900mm clear of the pool safety barrier at all times",
- (b) a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
  - that are set out in accordance with the relevant provisions of that Guideline, and
  - that comply with the other relevant guidelines of the Australian Resuscitation Council, and
  - that are illustrated by drawings with key words only in bold print,
- (c) a statement to the effect that formal instruction in resuscitation is essential,
- (d) the name of the teaching organisation or other body that published the sign and the date of its publication.

(2) However, any sign erected between 1st September, 1995 and 31st August, 2008 that bears notice in

accordance with clause 9 (a) and (b) of the Swimming Pools Regulation 1998 (as in force before its repeal) is taken to comply with this clause.

(3) The sign must be legible from a distance of at least 3 metres, and must be maintained in a clearly legible condition.

## **DEFINITIONS:**

**For the purpose of this Inspection Report, the definitions below apply.**

### **1. Barrier**

The assembly of components, natural or otherwise, that restricts access to the pool. The barrier includes items such as fences, posts and panels, gate units, gates and doorsets, constructed or natural walls retaining or otherwise, sides of buildings, and balustrades on a balcony, where they form part of the intended barrier. balcony, where they form part of the intended barrier.

### **2. Barrier height**

The height of the barrier perpendicular to the finished ground level.

### **3. Boundary barrier**

A dividing barrier between two adjoining properties

### **4. Child-resistant doorset**

A barrier installed in a residential building that comprises a door, door frame, self-closing device and latch.

### **5. Child-resistant windows**

The opening part of a window that is protected by a window opens directly into the pool area.

### **6. Finished ground level (FGL)**

Ground level or other permanent stable surface.

### **7. Flexible components**

Flexible components are those parts of a barrier or materials used in a barrier made with chain link wire mesh, perforated materials, fabric, brushwood and the like.

### **8. Foothold**

A component of, or feature in, an NCZ that can be used by a young child as an aid to climbing a barrier.

### **9. Gate**

A portion of a barrier, other than a child-resistant doorset that is designed to provide access climbing a barrier.

### **10. Gate unit**

An assembly comprising a gate, a hinge post, a latch post, a latching device, hinges and a self-closing device.

### **11. Handhold**

A component of, or feature in, an NCZ that can be used by a young child as an aid to climbing a barrier.

### **12. Indoor pool**

A pool that is fully enclosed within a residential building or by a separate building.

### **13. Indoor/outdoor pool**

A pool that is partly enclosed by a building and partly an outdoor pool.

### **14. Latch**

A self-latching mechanism that prevents the opening of a closed gate or door without activation of its release device.

### **15. Non-climbable**

A part of a barrier in which there are no handholds or footholds or other aids for climbing.

### **16. Non-climbable zone (NCZ)**

A zone on a barrier and in the space adjacent to a barrier, running the full length of a barrier including a gate, that is intended to restrict climbing of the barrier by young children.

### **17. Outdoor pool**

A pool that is not fully or partly enclosed by a building.

### **18. Outside of the barrier**

That side of a barrier facing away from the pool area.

### **19. Permanent structure**

A barrier, or part of a barrier which cannot be removed without the use of tools.

**20. Pool area**

The area that contains the pool and is enclosed by a barrier.

**21. Rigid components**

Rigid components of a barrier are those made of steel, aluminium, wood, glass, acrylic, masonry and the like.

**22. Swimming pool (referred to as pool in this Standard)**

Any structure containing water to a depth greater than 300 mm and used primarily for swimming, wading, paddling or the like, including a bathing or wading pool, or spa pool.

**23. Tool (tools)**

Screwdriver, spanner, wrench, shovel, cutting implement or the like.

**24. Within the property**

On a property other than on a property boundary.

**25. Young child**

A child under the age of five years.

**26. The Act**

The Swimming Pools Act 1992

## INSPECTION CONCLUSION

**General:**

It is considered that the above mentioned non-compliances do not pose a significant risk to public safety and as such the rectification works must be completed within forty two (42) days of the date of the inspection.

If you have any further enquires, please do not hesitate to contact the inspector by phoning during business hours on 0408642522.

Colin Drinkwater

E1 Certifier - BPB 2382

Information used in reference to this report:

- *The Swimming Pools Act, 1992*
- *Swimming Pools Regulation, 2008*
- *Australian Standard 1926.1 and 2 - 2012*
- *Local Government supplied information regarding Swimming Pool Safety and Statistics and Advisory.*
- *Building Code of Australia*
- *Important : Any information given either verbally or in writing as a result of this report is given under the company name of C&W Drinkwater Pty Ltd .*
- *This report and any information given in relation to it remains the property of C& W Drinkwater Pty Ltd , untill total payment has been received .*

.....The End ....

# **SWIMMING POOLS ACT 1992**

## **SECTION 22 E NOTICE TO COMPLY**

Reference is made to the inspection carried out on the 30/08/2016 of the swimming pool safety barrier serving the swimming pool situated on the above mentioned property.

The inspection revealed the following non-compliances in relation to the requirements of the Swimming Pools Act 1992, AS1926-2012 and the Regulations there under.

### **SWIMMING POOL SAFETY BARRIER INSPECTION**

#### **GENERAL REQUIREMENTS**

Is the swimming pool considered to be high risk? **No.**

Is the swimming pool surrounded by a child resistant barrier that separates the swimming pool from any residential building present? **Yes.**

#### **NON-COMPLIANT ITEMS**

All items listed under 'Non-Compliant Items' should be rectified as soon as possible and within forty two days (42) days of the date of this Swimming Pool Safety Barrier Inspection Report, a re-attendance should be ordered when the non compliant items are rectified, before a Certificate of Compliance can be issued.

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Gates shall be located so that the arc of operation is clear of any building or doorway.

Gates shall have sufficient clearance to swing freely through the arc of operation.

The opening under a closed gate shall not exceed 100 mm at any point.

The gate frame is required to be in a sturdy state of repair .

#### INSPECTION CONCLUSION

It is considered that the above mentioned non-compliances do not pose a significant risk to public safety and as such the rectification works must be completed within forty two (42) days of the date of the inspection.

Please take Notice that as the owner of the subject property, you are required to carry out rectification works to the address the above non-compliances in accordance with the requirements of the Swimming Pools Act 1992, AS1926-2012 and the Regulations there under.

Colin Drinkwater

E1 Certifier - BPB 2382