

Determination 2026/013

The compliance of part of a pool barrier with Building Code Clause F9

46 Bridgehampton Drive, Prebbleton, Christchurch

Summary

This determination considers whether part of a proposed pool barrier complies with Building Code Clause F9 - *Means of restricting access to residential pools*. The part of the barrier being considered is the 1800mm high timber boundary fence and its junctions with 1200mm high internal glass fencing.

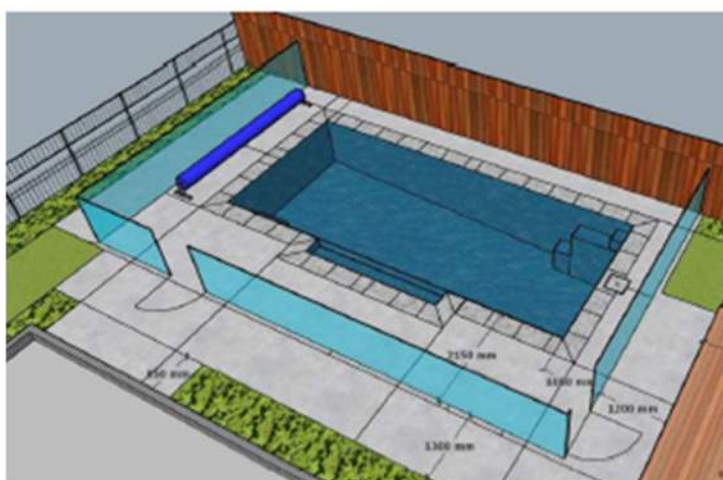


Figure 1: Digital rendering showing the proposed barrier design

In this determination, unless otherwise stated, references to “sections” are to sections of the Building Act 2004 (“the Act”) and references to “clauses” are to clauses in Schedule 1 (“the Building Code”) of the Building Regulations 1992.

The Act and the Building Code are available at www.legislation.govt.nz. Information about the legislation, as well as past determinations, compliance documents (eg Acceptable Solutions) and guidance issued by the Ministry, is available at www.building.govt.nz.

1. The matter to be determined

- 1.1. This is a determination made under due authorisation by me, Peta Hird, for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment (“the Ministry”).¹
- 1.2. The parties to the determination are:
 - 1.2.1. D and S Kennedy, the owners of the property (“the owners”), who applied for the determination
 - 1.2.2. Selwyn District Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.3. The matter to be determined, under section 177(1)(a), is whether part of a proposed pool barrier complies with Building Code Clause F9 *Means of restricting access to residential pools*. The part of the barrier being considered is the 1800mm high boundary fence and its junctions with 1200mm high internal fencing.

2. Background and building work

- 2.1. The owners are building a new house and pool on their property. In or around December 2025, the owners applied for a building consent (BC252754) for a residential pool barrier.
- 2.2. The pool barrier proposed in the building consent application consists of a 1200mm high glass barrier on three sides, and an 1800mm high timber boundary fence on the fourth side (see Figure 1). The glass barrier is 12mm wide. The boundary fence has palings on the inside (pool side) of the fence, and posts and horizontal rails on the outside. The horizontal rails are spaced 830mm apart².
- 2.3. On 23 December 2025, the authority sent an information request to the owners because it considered the pool barrier design did not comply with clause F9 due to the junctions between the boundary and internal fences. Correspondence between the parties followed, with the authority maintaining its view that the proposed pool

¹ The Building Act 2004, section 185(1)(a) provides the Chief Executive of the Ministry with the power to make determinations.

² The spacing of the horizontal rails was not included in the building consent application. However, the owners confirmed on 9 February 2026 the rails are spaced 830mm apart.

barrier where the internal fencing and boundary fence intersects did not comply with clause F9.3.3 in relation to access from the adjacent property and the top of the internal fence being a projection that would assist a child negotiating the barrier.

3. Submissions

The owners

- 3.1. The owners submit that the junctions between the 1800mm high boundary fence and 1200mm internal fencing do not comply with Acceptable Solution F9/AS1³, and must be considered as an alternative solution. They considered Determination 2021/009 concerned similar junctions between internal and boundary fencing, and in that determination the junctions complied as an alternative solution.⁴
- 3.2. In response to an information request from the Ministry about the boundary fence construction, the owners noted “As 900 mm between the top of the boundary fence and the top of the middle rail is not achieved, a fillet will be fixed to the middle rail to eliminate any potential toe or finger hold”.

The authority

- 3.3. The authority considers the owners’ proposal does not demonstrate compliance with clause F9.3.3. In correspondence with the owners, the authority stated:

The functional requirement of F9 is to restrict access and prevent unsupervised entry by children under five years of age. In particular, Performance Requirement F9.3.3 requires that barriers surrounding a pool do not have permanent objects or projections on the outside that could assist children in climbing over.

In this instance, the boundary fence forms part of the pool barrier. The owner cannot control what happens on the other side of the fence. To prevent a child climbing down from the top of the boundary fence into the pool area, a 900 mm climb-free zone is required. As the current distance between the boundary fence and the pool fence is only 600 mm, there is concern that a child could potentially use the pool fence to gain access to the pool area.

- 3.4. The authority considered there was insufficient information about the boundary fence construction in the building consent application, as evidence was not provided about the spacing of the rails, the presence or absence of projections within 1200mm, and the absence of permanent objects that may assist climbing.

³ Acceptable Solution F9/AS1 Residential pool barriers (first edition, effective from 27 April 2017).

⁴ Determination 2021/009 *Regarding the compliance of a new section of pool barrier* (24 May 2021). The determination found that the internal fencing constituted projections, noting there were rails that would provide hand and foot holds for a child negotiating the barrier. However, because there were no features on the neighbour’s side of the boundary fence that would assist a child in negotiating the barrier and the area immediately adjacent the boundary fence was also an immediate pool area, the determination concluded the boundary fence complied with clause F9.

- 3.5. The authority submits there are distinctions between the current application and Determination 2021/009, in which timber fillets had been installed to the outside face of the boundary fence to reduce climbing risk. In that determination the neighbouring side of the barrier was also an immediate pool area, which reduced the risk of unsupervised children attempting to climb from that side.

4. Discussion

- 4.1. Section 17 provides that all building work must comply with the Building Code to the extent required the Act. Section 162C(1) also states that every residential pool that is filled or partly filled with must have physical barriers that restrict access to the pool by unsupervised children under 5 years of age.
- 4.2. As this is a new pool barrier, it must comply with the requirements of Clause F9 of the Building Code that is currently in force, either through Acceptable Solution F9/AS1 or as an alternative solution.

Compliance with F9/AS1

- 4.3. Where a pool barrier is located on a property boundary, F9/AS1 paragraph 2.2.1(d) requires a “a 900mm high zone on the pool side” that is constructed in manner the restricts climbing by children. This zone must begin within 150mm from the top of the barrier and extend downward for at least 900mm. Paragraph 2.2.1(d) incorporates the general requirements in paragraphs 2.1.3 and 2.1.7 to explain how the zone must be constructed. Paragraph 2.1.7 requires there to be no “horizontal projection[s] from the face of the pool barrier greater than 10 mm unless they are at least 900 mm apart vertically”.⁵
- 4.4. In this case, the junctions where the glass barrier abuts the timber boundary fence are 600mm below the top of the boundary fence. This creates horizontal projections which are greater than 10mm and within the 900mm “non-climbable zone”. As such, the proposed barrier does not comply with F9/AS1 paragraph 2.2.1(d), specifically the requirement for a non-climbable zone to be constructed as specified in paragraph 2.1.7.

Compliance as an alternative solution

- 4.5. The Building Code is performance-based and allows for the use of different methods to achieve compliance. In considering the pool barrier as an alternative solution, I must be satisfied that it meets the performance criteria of clause F9. The relevant performance criteria for the purpose of this determination are:

⁵ The application of this criteria to the pool side of the barrier is discussed in Determination 2021/009 *Regarding the compliance of a new section of pool barrier* (24 May 2021) at [6.14] – [6.19].

F9.3.1 Residential pools must have or be provided with physical barriers that restrict access to the pool or the immediate pool area by unsupervised young children (ie, under 5 years of age).

F9.3.3 A barrier surrounding a pool must have no permanent objects or projections on the outside that could assist children in negotiating the barrier.

...

- 4.6. Owners of residential pools cannot control what occurs on an adjacent property, for example, an owner cannot prevent the owner of the neighbouring property from placing structures or objects close to the barrier that would make it easier for children to climb to the top of the barrier. The criteria in paragraph 2.2.1 of F9/AS1 address this risk by requiring that barriers on a property boundary:
- 4.6.1. are at least 1800mm high (measured on the pool side), and therefore a greater barrier for a child to navigate
 - 4.6.2. are far enough away from the water's edge (1000mm), making it less tempting for a child to jump if they navigate their way to the top
 - 4.6.3. have a 900mm "non-climbable zone" (as discussed at paragraph 4.3), which makes it harder for a child to climb down the pool side.
- 4.7. Regarding the outside of the boundary fence, the owners state that a fillet will be fixed to the middle horizontal rail which increases the vertical distance between potential toe or finger holds from 830 mm to 1650 mm. However, given that the owners are not necessarily able to do this work on the neighbour's property, I have not taken this into account in considering the compliance of the barrier.
- 4.8. I also note that none of the provided plans include a dimension for the distance between the boundary fence and the water's edge. However, the parties have not raised this as an issue, so I have not considered this further.
- 4.9. The boundary fence is 1800mm high and the inside surface of the boundary fence is a vertical face with no hand or foot holds. Although the junctions with the 1200mm high internal barrier create a projection 600mm below the top of the boundary fence, the internal barrier is narrow at 12mm⁶ and made of glass, which I consider is not an inviting hand or foot hold for a child attempting to negotiate the inside of the barrier.
- 4.10. There are no other hand or footholds either on the face of the boundary fence or nearby where the internal fence meets the boundary fence to assist a child in climbing down. In my opinion, it would be very difficult for a child to use the top surface of the glass fence as the only hand or foot hold to climb down into the immediate pool area. Given the construction, in combination with the height of the boundary fence and the lack of hand or foot holds on its inside surface, I am of the

⁶ With bevelled edges the flat surface is likely to be approx. 10mm.

view the proposed barrier will restrict children from climbing down into the pool area.

- 4.11. I am satisfied the proposed barrier will restrict access to the pool area by unsupervised young children and meets performance requirements F9.3.1 and F9.3.3 as an alternative solution.

5. Decision

- 5.1. In accordance with section 188 of the Building Act 2004, I determine the part of the proposed barrier, consisting of the 1800mm high timber boundary fence and its junctions with the 1200mm high internal glass fencing, complies with clause F9.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 07 April 2026.

Peta Hird

Lead Determinations Specialist