

FENCING YOUR SPA OR SWIMMING POOL

A guide to understanding your responsibilities as a pool owner.



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INTRODUCTION

Whether you own or rent a property with a pool, it's your responsibility to make sure it has a physical barrier that restricts access to an unsupervised child under five years old.

All pools must have a physical barrier that stops unsupervised young children from entering the pool or area around it.

Barriers must either surround the pool and the immediate pool area or, in the case of a small heated pool like a spa or hot tub, cover the pool itself. There must be nothing on the outside of the barrier that a child could use to climb over it.

Gates must open away from the pool, not be able to be easily opened by children, and close automatically after use.

WHO IS RESPONSIBLE UNDER THE BUILDING ACT?

Councils

Territorial authorities (councils) are obliged to take all reasonable steps to make sure pools in their district comply with the Act. They do this by:

- approving and inspecting building consents for new pools and pool fencing
- keeping a register of pools, spa pools and hot tubs in their area
- regular auditing to make sure pool barriers continue to comply.

Pool owners

Property and pool owners must:

- maintain their pool barrier in a compliant state
- obtain a building consent before installing or constructing a pool or pool barrier, and to comply with any conditions imposed under the consent
- make sure the pool and immediate pool area has a barrier that complies with the Act (this includes making sure the components of the barrier and gates are maintained so they operate effectively).

Tenants

Tenants and anyone with control of a pool also have an obligation to make sure the pool fencing complies with the Act.

DEFINITIONS

Pool

Under the Act, a pool is defined as an excavation, structure or product that is used for or is capable of being used for swimming, wading, paddling, or bathing and can be filled with at least 400mm of water.

Immediate pool area

This means the land in or on which the pool is situated and the surrounding area used for activities carried out in relation to or involving the pool.

Small heated pool

A small heated pool is a heated pool (such as a spa pool or a hot tub) with a water surface area of 5m² or less.

I'M BUILDING A NEW POOL - WHAT DO I NEED TO DO?

Because installing a pool barrier is considered building work under the Building Act 2004, you will first need to get a building consent.

Depending on the type of pool, the building consent may also cover the construction of the pool itself or other building work to ensure compliance with the building code.

Your building consent will list the stages when council staff will need to inspect the fencing or pool work.

It is the owner's or building consent applicant's responsibility to notify the council when the work is complete and to apply for a code compliance certificate (CCC) for the completed work.

It is important the pool is not filled until it has been confirmed the fencing complies.

In some cases the construction of a pool will not require a building consent, but the barrier to prevent access to the pool will still require consent.

HOW AND WHEN WILL MY POOL BARRIER BE CHECKED?

Under the Building Act, Masterton District Council is obliged to make sure pool fencing continues to comply. We do this by carrying out periodic audits of pool fencing. These audits are generally carried out every three years – however, an audit may be carried out sooner if we have reason to believe the pool fencing does not comply, or if an owner requests a visit (for example, a vendor or new owner may want to check the fencing complies).

WHAT HAPPENS DURING A POOL AUDIT?

Council staff will visit your property and inspect all aspects of the pool fencing, including:

- the barrier (making sure the barrier is clear of any climbable material)
- any gates
- any doors or windows opening into the pool area.



HOW MUCH DOES A POOL AUDIT COST?

Pool inspections will incur fees. Please visit www.mstn.govt.nz, and search 'fees and charges' for the current rates.

Charges will include time for the staff member to travel to the property, time on site, and any research or administration directly related to the inspection.

The fees of an independently qualified pool inspector (IQPI) vary. If an IQPI carries out the inspection, the council will still charge for the actual time spent on updating the pool register. You will be billed based on the hourly rate applicable at the time (visit www.mstn.govt.nz for the current rates).

WHAT IF MY POOL BARRIER DOESN'T PASS THE INSPECTION?

If your pool barrier doesn't comply, we will talk with you about what needs to be done to bring it up to standard and how long you will be given to carry out repairs or maintenance. If the work is substantial, a building consent may be required. You will receive this information in writing. If after reinspection the pool remains non-compliant, we will proceed with further enforcement options.

If a pool owner refuses to make their fencing comply, or to empty a pool with non-compliant fencing, the council can take enforcement action, including an infringement fee of \$500 and a fine of up to \$20,000 upon conviction.

Note: Your pool must be emptied and remain empty until the council is satisfied it meets the requirements of the Building Act. Before emptying water from your pool, you may need to take precautionary measures for inground pools where the groundwater table is high or may be of concern, or if there is a risk of someone falling into the empty pool.

Emptying your pool is not a means of compliance. It is a requirement while working towards compliance.

SPAS AND HOT TUBS

If you have a spa or hot tub, this must have a cover to restrict access by an unsupervised child under 5 years of age.

The spa or hot tub must have:

- unclimbable walls at least 760mm above the floor or ground
- a cover that can be secured in a way that prevents access by a child under 5 years of age.
 - The cover must not allow a gap that would not make it possible for a child's head to pass through it (in practical terms, a 100mm sphere).
 - The cover must slope from the centre to the edges to prevent water pooling.
 - The cover must be strong enough to withstand the weight of a child under 5 years of age.
 - The cover must have signage indicating the child safety features. This should be on two opposite sides of the cover, that states, in black letters a minimum of 5mm high.

WARNING: This pool cover must be kept locked at all times except when under adult supervision.

If you need guidance on how to meet these standards, see Acceptable Solutions F9/AS1 and F9/AS2, available from the MBIE website: www.building.govt.nz/building-code-compliance/f-safety-of-users/pool-safety

BARRIER SPECIFICATIONS

POOL BARRIERS

Only the immediate pool area is to be included in the fenced area, not the whole of the outdoor living space. It should not be used as a thoroughfare to other parts of the property.

Activities that may be carried out in the fenced area are those that involve the pool or are in relation to it. For example, you could have a barbeque and outdoor furniture in the immediate pool area but not a clothes line or vegetable garden.

Height and angle

- Your pool barrier shall be at least 1200mm high measured on the outside and at least 1200mm high measured from any permanent projection or object placed on the ground outside the barrier (see figure 1, 2, 6 and 7).
- It must not be angled more than 15° from vertical, and must slope away from the pool.

OPENINGS AND GAPS

- Your pool barrier shall not have any openings that a 100mm diameter sphere could pass through.
- Steel wire mesh with square openings may be used as an alternative, as long as the openings do not have a side dimension greater than 13mm (see figure 3) for a 1.2m high barrier.
- Panels with steel wire mesh with openings measuring between 13mm and 35mm on a side must be at least 1800mm high, but may have a gap at the base of not more than 100mm (see figure 4).

FEATURES TO STOP A CHILD CLIMBING INTO THE POOL OR POOL AREA

- Any rails, rods or wires forming part of a pool barrier that aren't vertical shall be at least 900mm apart vertically, to prevent a child using the barrier as a ladder (see figure 5).
- There shall be no ground features or objects outside a pool barrier within 1200mm of the top of the barrier that a child could use to climb over the barrier (see figure 6 and 7).

- Any projections or indentations on the outside face of a pool barrier shall not have a horizontal projection from the face of the pool barrier greater than 10mm unless they are at least 900mm apart vertically.
- If there are any items against the inside of the fence that can be accessed through the fence, they should be kept a minimum of 500mm away from the fence. This will help to eliminate the use of these items as climbing aids, from the outside, to access the pool area. Items of concern are such things as tables, chairs and storage boxes.

POOL BARRIERS ON A PROPERTY BOUNDARY

Height, angle and placement

- Any pool barriers (including gates) on a property boundary shall be at least 1800mm high, measured from the ground level on the pool side (see figure 8).
- The barrier shall be located at least 1000mm horizontally from the water's edge.

A POOL WALL AS A BARRIER

- The outside face of a pool wall is an acceptable barrier if it is at least 1200mm high and complies with the requirements of a pool barrier listed above. Please note: The pump (if within 1.2m) and pipe fittings on the pool wall are deemed to be climbing aids.
- When the top of a pool wall is 1000mm or more from the surrounding ground, clause F4 of the Building Code, "Safety from falling", may apply if there is a potential hazard from falling over or off the top of the wall.
- Any ladder or other means of providing access to the pool must have a compliant enclosing barrier and gate.



BALCONIES PROJECTING INTO THE IMMEDIATE POOL AREA

- When the floor of a balcony is more than 2400mm vertically above the immediate pool area, a barrier complying with clause F4 of the Building Code may be used as long as there are no projections within 1200mm below the top of it (such as a wall or landscaping feature) that could assist a child to climb down.

GATES IN POOL BARRIERS

A gate in a pool barrier shall:

- be hinged
- be at least 1200mm high, and comply with the requirements of a pool barrier listed above
- open away from the pool
- swing clear of any obstruction that might hold it open
- have a self-closing device that will return the gate to the closed and latched position from any position with a stationary start
- have hinges arranged so that when the gate is lifted up or pulled down:
 - the latching device will not release
 - the gate will not come off its hinges
 - the ground clearance under the gate will not allow the passage of a 100mm diameter sphere.

A latch on a gate in a pool barrier shall:

- automatically operate when the gate closes so that manual operation is required to release it
- be positioned so it cannot be reached by a child from outside the pool area
- not be capable of being released from outside the pool area by the insertion of a thin implement through any gaps.

A BUILDING WALL FORMING THE POOL BARRIER

Where there is a window that can open above and within 2400mm vertically of the immediate pool area, the window shall have either:

- the lower edge of the opening no less than 1000mm above the floor inside the building with no projections underneath of more than 10mm
- a restrictor limiting the size of the opening such that a 100mm diameter sphere cannot pass through
- a permanently fixed screen over the opening that a 100mm diameter sphere cannot pass through

Doors in a building wall that provide access into the immediate pool area shall be:

- single leaf doors that are not more than 1000mm wide
- side-hinged or sliding.

Doors in a building wall providing access into the immediate pool area shall have:

- either a self-closing device or an audible alarm
- a self-latching device that automatically operates when the door is closed and must be released manually, with a release located at least 1500mm above the inside floor
- a sign that must be fixed next to the inside door handle at a height between 1200mm and 1500mm stating: "SWIMMING POOL. CLOSE THE DOOR" written in black letters of at least 5mm high, complying with paragraphs 2.2 and 3.2.2 of Building Code F8/AS1.

Signs on pool doors are not required in detached dwellings or in household units in multi-unit dwellings (such as apartment units). However, homeowners may choose to fit signs to their pool access doors as a reminder for visitors.

Doors will usually require two-handed operation – one to release the high level latch and the other to operate the door handle lock set.

Doors enable the barrier to the pool to remain effective except when the doors are briefly used for access.

For hinged doors that open towards the pool, a self-closing device shall return the door to the closed and latched position from any position when the door is stationary. For all other doors, a self-closing device shall return the door to the closed and latched position when the door is stationary and 150mm or further from the closed and latched position.

A door alarm shall:

- produce an alarm tone of 75dBAL10 when measured at a distance of 3000mm that starts seven seconds after the door's self-latching device is released
- automatically return to a state of readiness when the door is closed and latched
- have a low battery charge warning that is visual or audible.

Door alarms may be provided with a deactivation switch placed not less than 1500mm above floor level that silences the alarm for not more than 15 seconds.

KEEP YOUR POOL AND POOL AREA SAFE

Even when your pool has a barrier that complies with the Act, you need to make sure:

- gates or doors are not propped open or kept from latching
- there is nothing close to the pool barrier that could be used by children for climbing, for example bikes, trikes, flowerpots, deck chairs, firewood, boxes, or wheelbarrows.

For more information, visit: www.building.govt.nz or www.mstn.govt.nz

To book an inspection or to check that your pool is registered with the council phone: 06 370 6300.

DIAGRAMS

Figure 1: Method for determining clearance height of pool fence

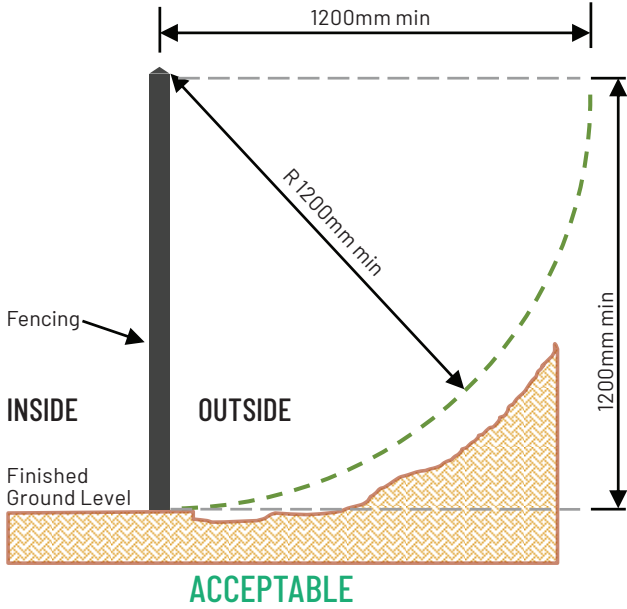


Figure 2: Non-compliant pool fence

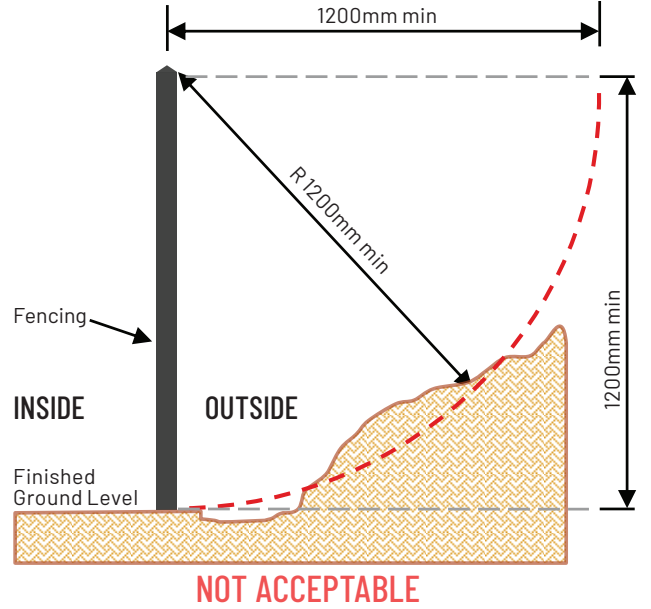


Figure 3: Wire mesh fencing with a maximum opening of 13mm

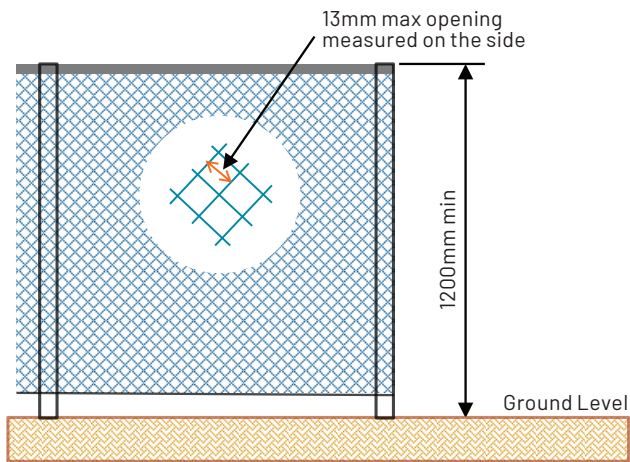


Figure 4: Wire mesh fencing with an opening between 13mm - 35mm

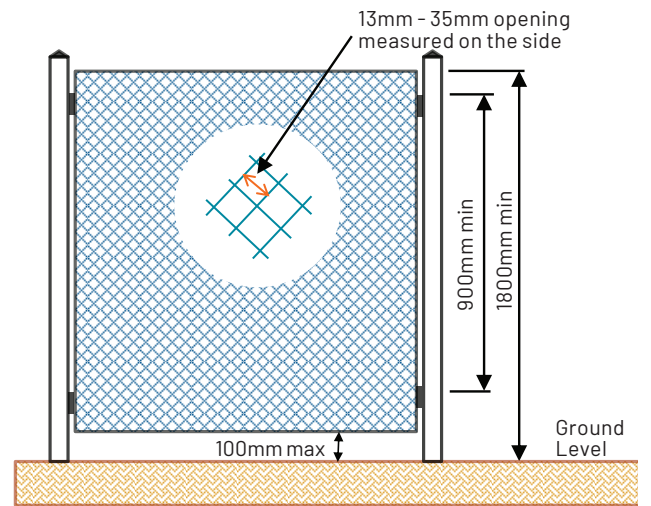


Figure 5 : Distance of horizontal structures on a pool fence

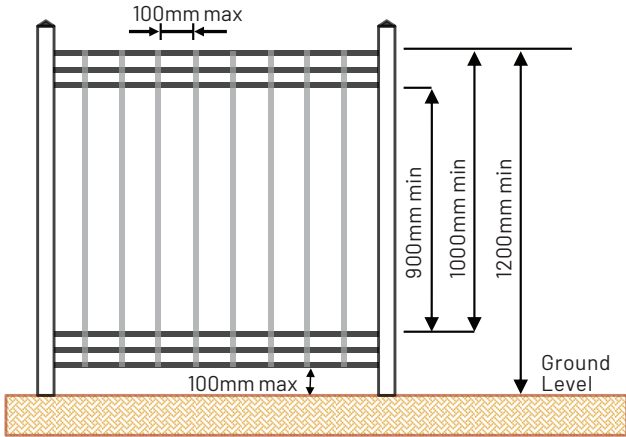


Figure 6: Method for determining distance of objects from the pool fence

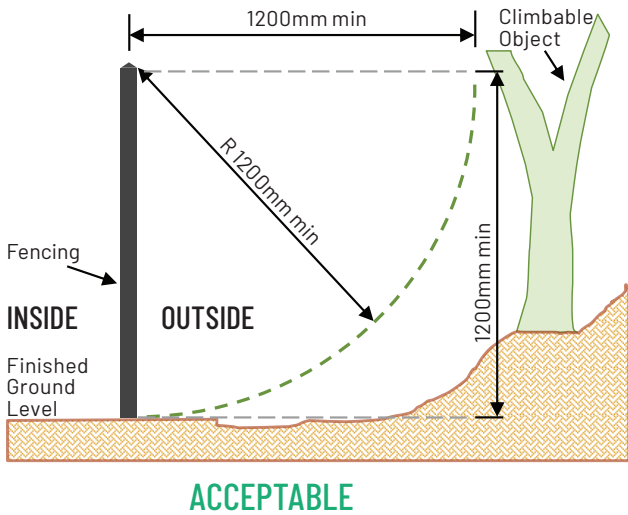


Figure 7: Non-compliant pool fence

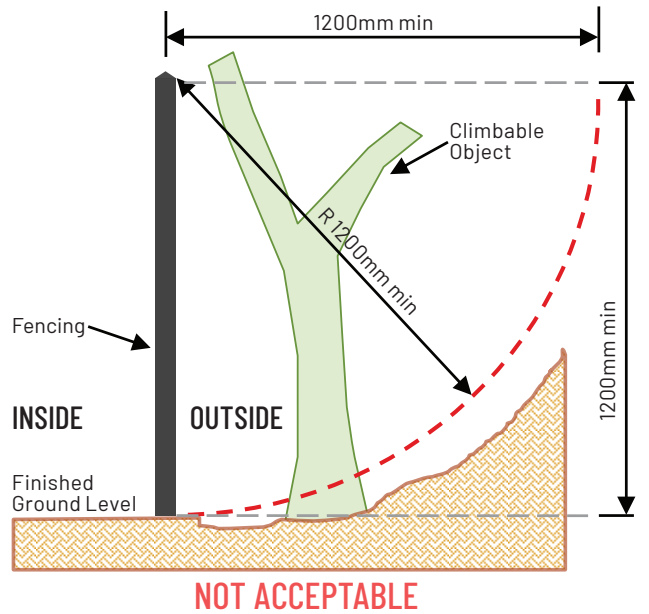


Figure 8: Pool barriers on a property boundary

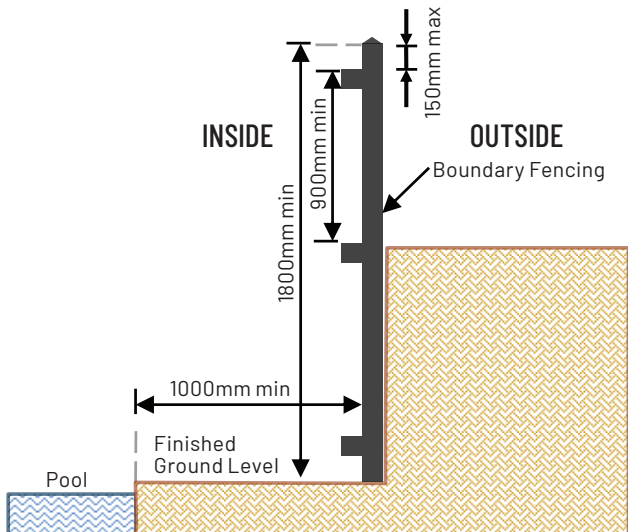


Figure 9: Horizontal fencing with spacing of not more than 10mm

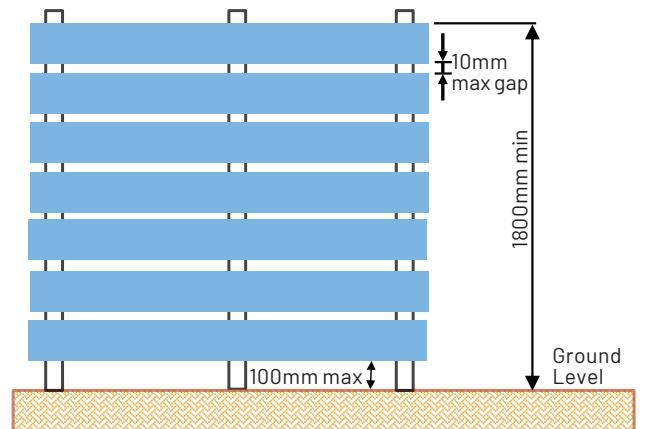


Figure 10: Solid panel type barrier with rails on the inside

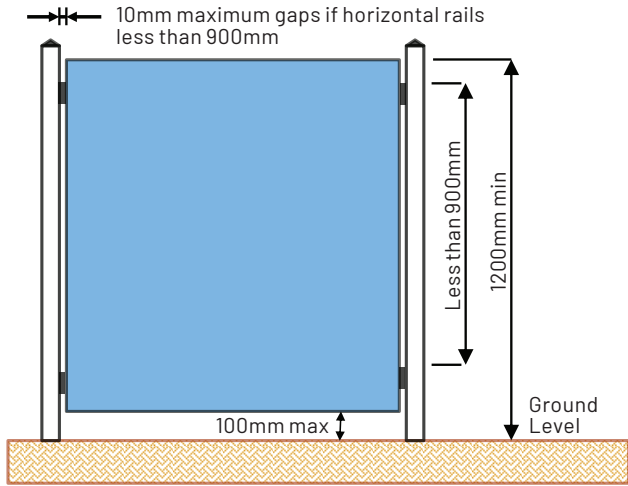


Figure 11: Solid panel type barrier with rails on the outside

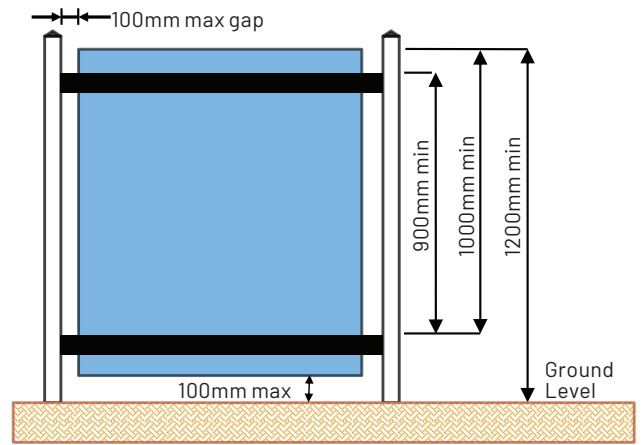


Figure 12: Gate latches for fences at least 1500mm high

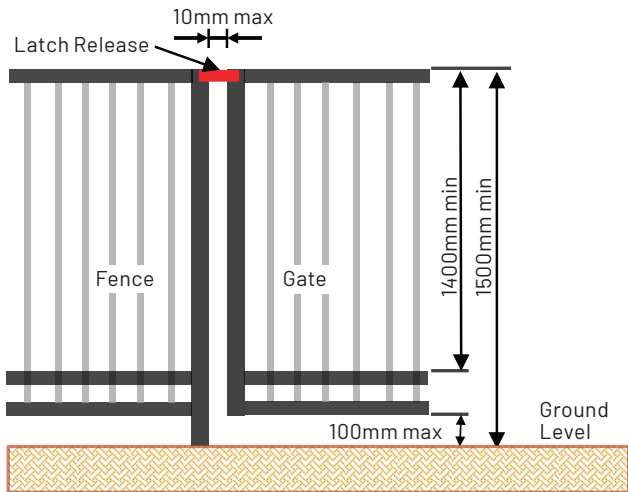


Figure 13: Gate latches for fences less than 1500mm high

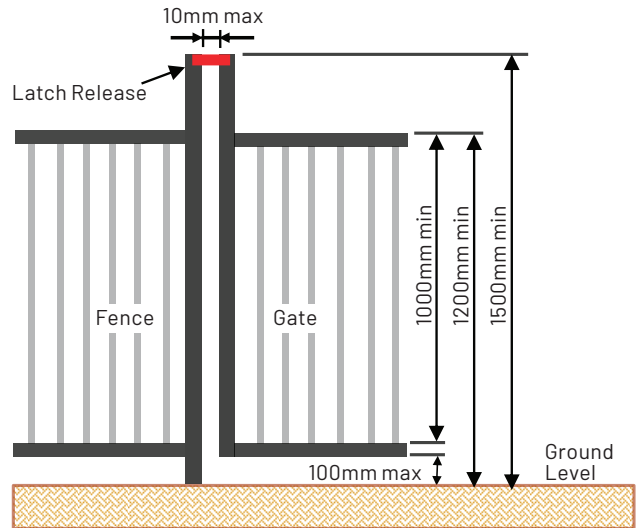


Figure 14: Gate latches for fences less than 1500mm high with a latch shield

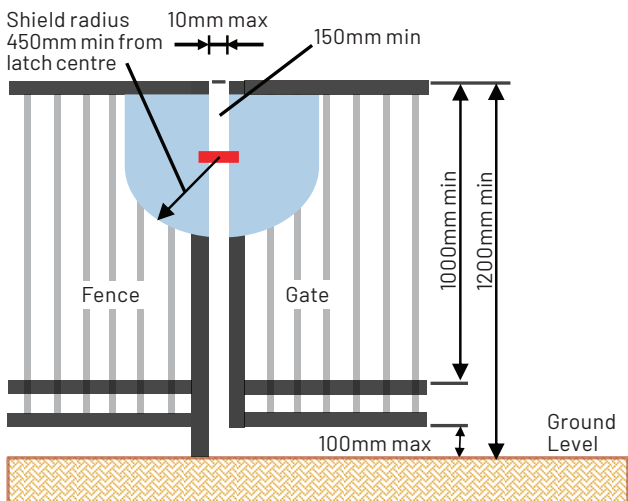
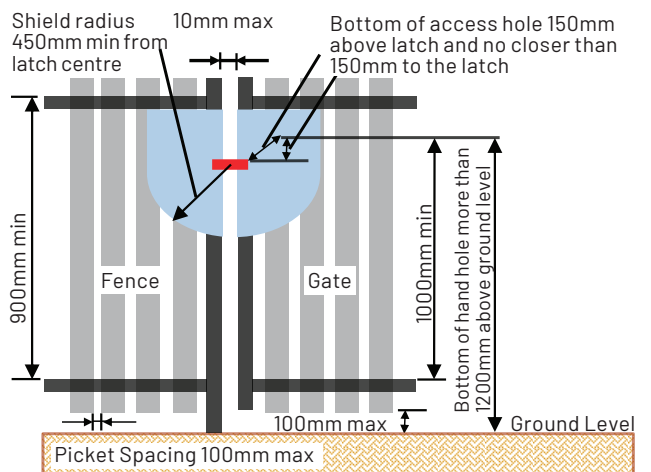


Figure 15: Gate latches for fences less than 1500mm high with a latch shield and access hole



PHONE

06 370 6300 - 8am to 5pm except Tuesdays 9am to 5pm
06 378 7752 after hours

EMAIL

pools@mstn.govt.nz

CALL INTO

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161 Queen Street, Masterton
9am - 4pm

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PO Box 444, Masterton 5840

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