

## FENCING OF SWIMMING POOLS ACT 1987 (the Act)

### Section 6 Special exemptions

- (1) A territorial authority may, by resolution, grant an exemption from some or all of the requirements of this Act in the case of any particular pool where the territorial authority is satisfied, having regard to the particular characteristics of the property and the pool, any other relevant circumstances, and any conditions it imposes under subsection (2) of this section, that such an exemption would not significantly increase danger to young children.
- (2) In granting an exemption under subsection (1) of this section, the territorial authority may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.
- (3) Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

## SCHEDULE

[Sections 13B, 13C]

## [MEANS OF COMPLIANCE] FOR FENCES UNDER THIS ACT

## HEIGHT

1. (1) The fence shall extend—
  - (a) At least 1.2 metres above the ground on the outside of the fence; and
  - (b) At least 1.2 metres above any permanent projection from or object permanently placed on the ground outside and within 1.2 metres of the fence.
- (2) Notwithstanding subclause (1) of this clause, where the fence is constructed of perforated material, netting, or mesh and any opening in the material, netting, or mesh has a dimension (other than the circumference or perimeter) greater than 10 mm, the fence shall extend at least 1.8 metres above the ground or the projection or object.

## GROUND CLEARANCE

2. Any clearance between the bottom of the fence and ground level shall not exceed 100 mm.

## MATERIALS

3. All materials and components shall be of a durable nature and shall be erected so as to inhibit [any child under the age of 6 years] from climbing over or crawling under the fence from the outside.
4. Except where the fence is horizontally close-boarded [or is made of perforated material, netting, or mesh], the spacing between adjacent vertical pales, panels, or other posts shall not exceed 100 mm at any point.
- [5. All fencing supports, rails, rods, and wires, that are not vertical, and all bracing that is not vertical, shall be inaccessible for use for climbing from the outside.]  
[5A. Notwithstanding clause 5 of this Schedule, a fence may have horizontal supports, rails, rods, or wires, that are accessible for use for climbing from the outside, and horizontal bracing that is accessible for such use, if—
  - (a) The distance between any 2 of them at any point is at least 900 mm; and
  - (b) There is no other support, rail, rod, wire, or bracing (other than a vertical rail) between the same 2 at any point.]
6. Where any perforated material, netting, or mesh is used, no opening in that material, netting, or mesh shall have any dimension (other than the circumference or perimeter) greater than 50 mm.
7. All perforated material, netting, or mesh material shall be firmly attached at both top and bottom to a rail, pipe, or similar firm structure, or otherwise be of such a nature that the fence cannot readily be crossed by children under the age of 6 years.

## GATES AND DOORS

8. Every gate or door shall be so constructed as to comply with the relevant requirements of clauses 1 to 7 of this Schedule, and shall be so mounted that—
- (a) It cannot open inwards towards the immediate pool area;
  - (b) It is clear of any obstruction that could hold the gate or door open and no other means of holding the gate or door open is provided;
  - (c) When lifted up or pulled down the gate or door does not release the latching device, come off its hinges, or provide a ground clearance greater than 100 mm.

## OPERATION OF GATES AND DOORS

9. (1) Every gate or door shall be fitted with a latching device.
- (2) Where the latching device is accessible from the outside of the fence only by reaching over the fence, gate, or door or through a hole in the fence, gate, or door, the latching device and the lowest point of any hole giving access to it shall be at least 1.2 metres above the ground on the outside of the fence.
- (3) Where the latching device is otherwise accessible from the outside of the fence, gate, or door, the latching device shall be at least 1.5 metres above the ground on the outside of the fence.
10. Every gate or door shall be fitted with a device that will automatically return the gate or door to the closed position and operate the latching device when the gate or door is stationary and 150 mm from the closed and secured position.

## DOORS IN WALLS OF BUILDINGS

11. Where any building forms part of a fence and the pool is not contained within the building, any door that gives access to the immediate pool area need not comply with the requirements for gates or doors set out in clauses 8 to 10 of this Schedule to the extent (if any) that the territorial authority is satisfied that such compliance is impossible, unreasonable, or in breach of any other Act, regulation, or bylaw, and the door is fitted with a locking device that, when properly operated, prevents the door from being readily opened by children under the age of 6 years.

Hist. Schedule, omitted expression "Section 8" and substituted expression "Sections 13B, 13C", on 1 July 1992 by 1991 No 150, s92(1).

Hist. Heading; omitted word "REQUIREMENTS" and substituted words "MEANS OF COMPLIANCE" on 1 July 1992 by 1991 No 150, s92(1).

{ Editorial Note: 1991 No 150 substitutes for the word "REQUIREMENT" whereas the original schedule heading actually contained the word "REQUIREMENTS". }

Hist. Cl.3 omitted words "any person" and substituted words "any child under the age of 6 years" on 20 November 1989 by 1989 No 117, s2(1).

Hist. Cl.4 inserted words "or is made of perforated material, netting, or mesh" on 20 November 1989 by 1989 No 117, s2(2).

Hist. Cl.5 repealed and cl.5 & cl.5A substituted on 20 November 1989 by 1989 No 117, s2(3).  
The repealed cl.5 is listed below for reference.

"5. All fencing supports, rails, rods, wires, bracing, or other similar posts shall be on the inside of the fencing and shall be inaccessible for use for climbing from the outside."

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FENCING OF SWIMMING POOLS AMENDMENT ACT 1989

Public Act 1989 No 117

Date of assent 20 November 1989

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CONTENTS

	Title
1	Short Title
2	Schedule amended

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FENCING OF SWIMMING POOLS AMENDMENT ACT 1989

Public Act 1989 No 117

An Act to amend the Fencing of Swimming Pools Act 1987

BE IT ENACTED by the Parliament of New Zealand as follows:

1 SHORT TITLE

This Act may be cited as the Fencing of Swimming Pools Amendment Act 1989, and shall be read together with and deemed part of the Fencing of Swimming Pools Act 1987 (hereinafter referred to as the principal Act).

2 SCHEDULE AMENDED

- (1) Substituted words in cl.3 of the Schedule to principal Act.
- (2) Inserted words in cl.4 of the Schedule to principal Act.
- (3) Substituted cl.5 & cl.5A for repealed cl.5 of the Schedule to principal Act.

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The Fencing of Swimming Pools Act 1987 is administered in the Department of Internal Affairs.



Waitakere City Council  
Te Taiāo o Waitakere

EXEMPTION APPLICATION FORM FOR SPA & SWIMMING POOLS

The Operational Compliance Manager  
Waitakere City Council  
Private Bag 93109  
Henderson

WAITAKERE CITY

OFFICE USE ONLY

SITE ADDRESS:

SWP NO:

ABA NO:  
(IF APPLICABLE)

OWNERS NAME:

Mr/Mrs/Miss/Ms Phil Brent

Hereby make application for an exemption from the standard fencing controls relating to pools.

I propose to make or have already made the following arrangements for the security of my pool:

Reasons why proposal should be granted: (See reverse): I ask that the outward opening doors be given exemption as being a plaster house to charge joinery would include breaking out joints, replastering etc - a very expensive process we have latched at the top of the doors and the doors do not close properly unless latched (we cant close doors securely without latches being used) the gate in its present position allows me to use the area for storage of pool cleaning gear. P.T.O.

ADDRESS FOR

CORRESPONDENCE: 16 Westergrove Place West Harbour

APPLICATION FEE: \$250.00 (one off)

Signature: Phil Brent

Telephone No: (09) 416 8007 0274744 855

Date: 5/8/2005

# DISPENSATION APPLICATION

## INTRODUCTION:

An exemption is a discretionary power conferred on Council by Section 6 of the Fencing of Swimming Pools Act 1987, to allow in certain circumstances exemptions from the requirements of the Schedule of the said Act.

## INFORMATION TO BE PROVIDED:

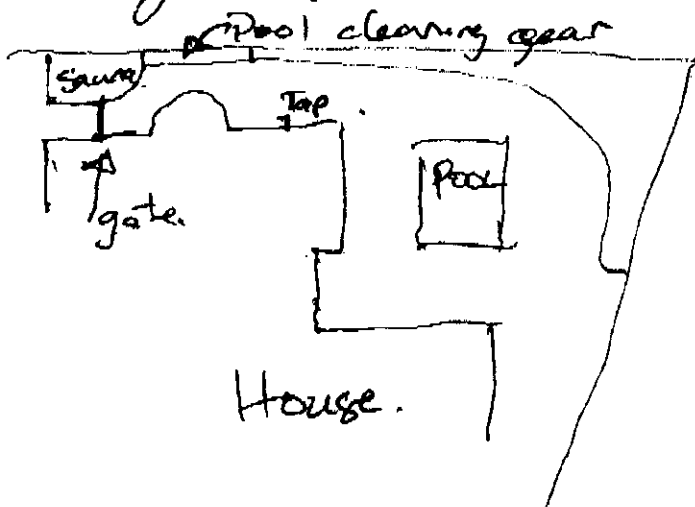
To avoid delay in the processing of your application the following information must be provided:

1. PLANS Showing position of swimming pool in relation to house and boundaries, and position of existing and/or proposed fencing. Also the height of the fences, and material of which they are constructed must be stated. Photographs may be provided for clarification.
2. REASONS Justifying the proposal. Council may only grant an application where there are circumstances warranting a dispensation from the standard requirements for fencing. The guidelines for fencing of pools are available at the Building counter. It must be shown that such an exemption would not significantly increase danger to young children.

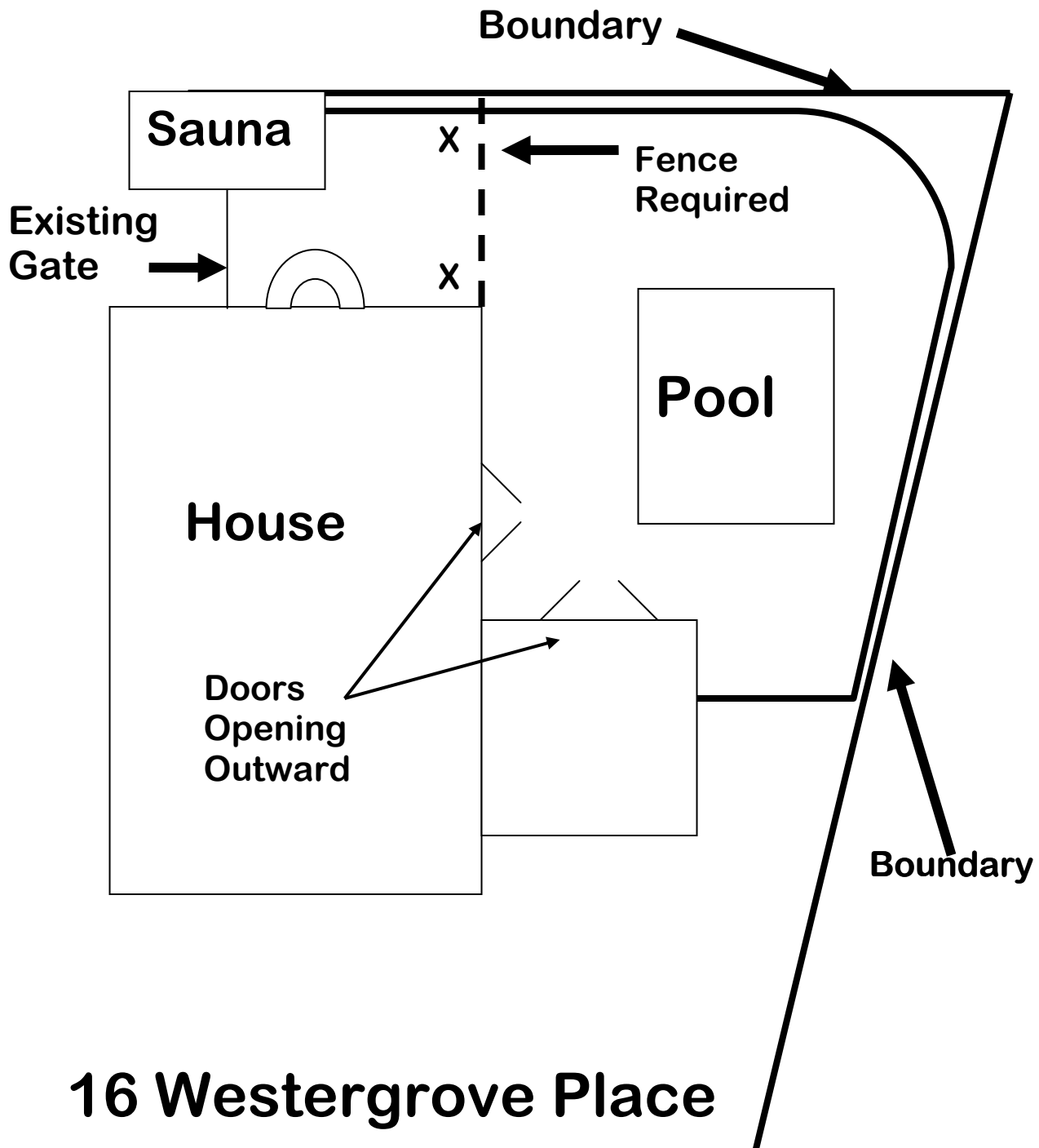
The Council may impose other conditions relating to the property or the pool as are reasonable in the circumstances.

*allows access to tap for cleaning pool area  
and allows access to the source which is  
also used in conjunction with the pool.*

*moving the gate does not improve ~~child~~  
proof security for the pool in any way  
in fact where it is the pool cannot be seen  
and I believe it is in the best place for satisfying  
a child that he ~~cannot~~ cannot should not  
try to go further.*



*I ask also that my  
application fee be waived*



**16 Westergrove Place**

**Indicative Drawing Only**  
**Not to Scale**

26 JUL 2005



Waitakere City Council  
Te Tatao o Waitakere

# Exemption Application Form for Spa & Swimming Pools

APP - 29/7/05  
Ref. C99636

Send to: Chief Executive  
Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY 1231

For more information:  
Civic Centre, Waipareira Avenue,  
Henderson  
Telephone (09) 839 0400  
Facsimile (09) 836 8001

639268

Owners Name: K.J. & D.C. HOPKINS

Address of pool: 15 SEACREST DRIVE WEST HARBOUR

Hereby make application for an exemption from the standard fencing controls relating to pools. I propose to make or have already made the following arrangements for the security of my pool:

I WILL FENCE BETWEEN THE HOUSE AND PUMP SHED AS PREVIOUSLY AGREED. THE FENCE WILL BE OF REGULATION HEIGHT WITH A SELF CLOSING GATE.

Reasons why proposal should be granted: (See reverse)

IT IS IMPRACTICABLE TO FENCE IN ANY OTHER MANNER AND THIS HAS BEEN DISCUSSED ON MANY OCCASIONS PREVIOUSLY. THE COUNCIL HAS PLANS & PHOTOS OF THE ENTIRE POOL AREA.

Address for Correspondence: AS ABOVE

Application fee: \$250 (one off)

Signature: [Signature]

Telephone Number: 021 460 220

Date: 22 July 2005

Note the explanation and requirements on the reverse of this form.

Chief Executive	
Corporate Services	
City Services	
Assets	
Community Services	
EST. MATHEN	
Procurement	
Customer Services	
Information Services	
Human Resources	
Finance	
Legal Services	
IT Services	
Public Works	
Transport	
Water Services	
Waste Services	
Workforce Development	

**Office Use Only**

Site Address: 15 SEACREST DRIVE

SWP No: 20020474

ABA No: \_\_\_\_\_  
(If applicable)

A 8

EXISTING blockwall

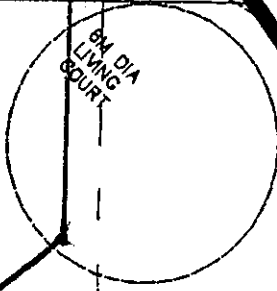
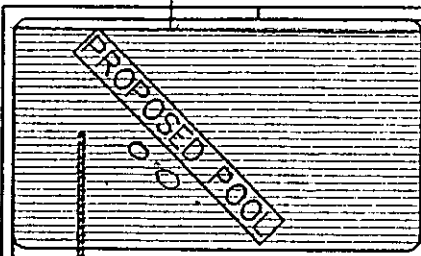


SEACREST DRIVE

44' 59" 15.00m

1.8M HIGH VERTICAL BOUNDARY FENCE WITH POSTS

FENCE & GATE WITH LATCH TO BE THE SAME WITH



EXISTING 1.8M SOLID BLOCK WALL

99' 19" 17.16m

134' 59" 35.01m

EXISTING HOUSE

Proposed fence at Pump

EXISTING GATE LATCH TO GATE WITH THE 1ST LATCH

EXISTING 1.8M SOLID BLOCK WALL

P P P

Pumphouse

EXISTING gate

SEACREST DRIVE

134' 59" 21.07m

EXISTING DRIVEWAY

15 Seacrest Dr

existing S/W

44' 59" 25.01m

A 9

@11.45 on 12 JULY 05

Recpt - C91386  
Recvd - 15/7/05

# Exemption Application Form for Spaw Swimming Pools

WAIKARE CITY COUNCIL

15 JUL 2005



Waitakere City Council  
Te Taiaroa Waitakere

Send to: Chief Executive  
Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY 1231

For more information:  
Civic Centre, Waipareira Avenue,  
Henderson  
Telephone (09) 839 0400  
Facsimile (09) 836 8001

ATTN  
Mr. KOOLEN

Owners Name: PAUL / LINDA BECK.  
Address of pool: 39 RENOIR STREET • WEST HARBOUR.

CHEQUE FOR  
\$250.00  
TO CASHIERS

Hereby make application for an exemption from the standard fencing controls relating to pools. I propose to make or have already made the following arrangements for the security of my pool:

We believe our pool and landscaped area fully meets the requirements stated by the fencing act of 1987, and as such does not endanger the safety of children. We ask that the application fee be refunded and any exemption be reflected on the LIM R

Reasons why proposal should be granted: (See reverse) All possible safety measures have been met: - Doors have Top Bolts. The planted area of concern is small and purely decorative. The overall area is not excessive and is purely used in conjunction with Pool Activities.

Address for Correspondence: 39 RENOIR STREET - WEST HARBOUR - AUCKLAND

Application fee: \$250 (one off)

Signature: [Signature]

Telephone Number: 09-416-9438

Date: 12 JULY 05

cheque  
832433  
enclosed

Note the explanation and requirements on the reverse of this form.

Office Use Only

Site Address: \_\_\_\_\_

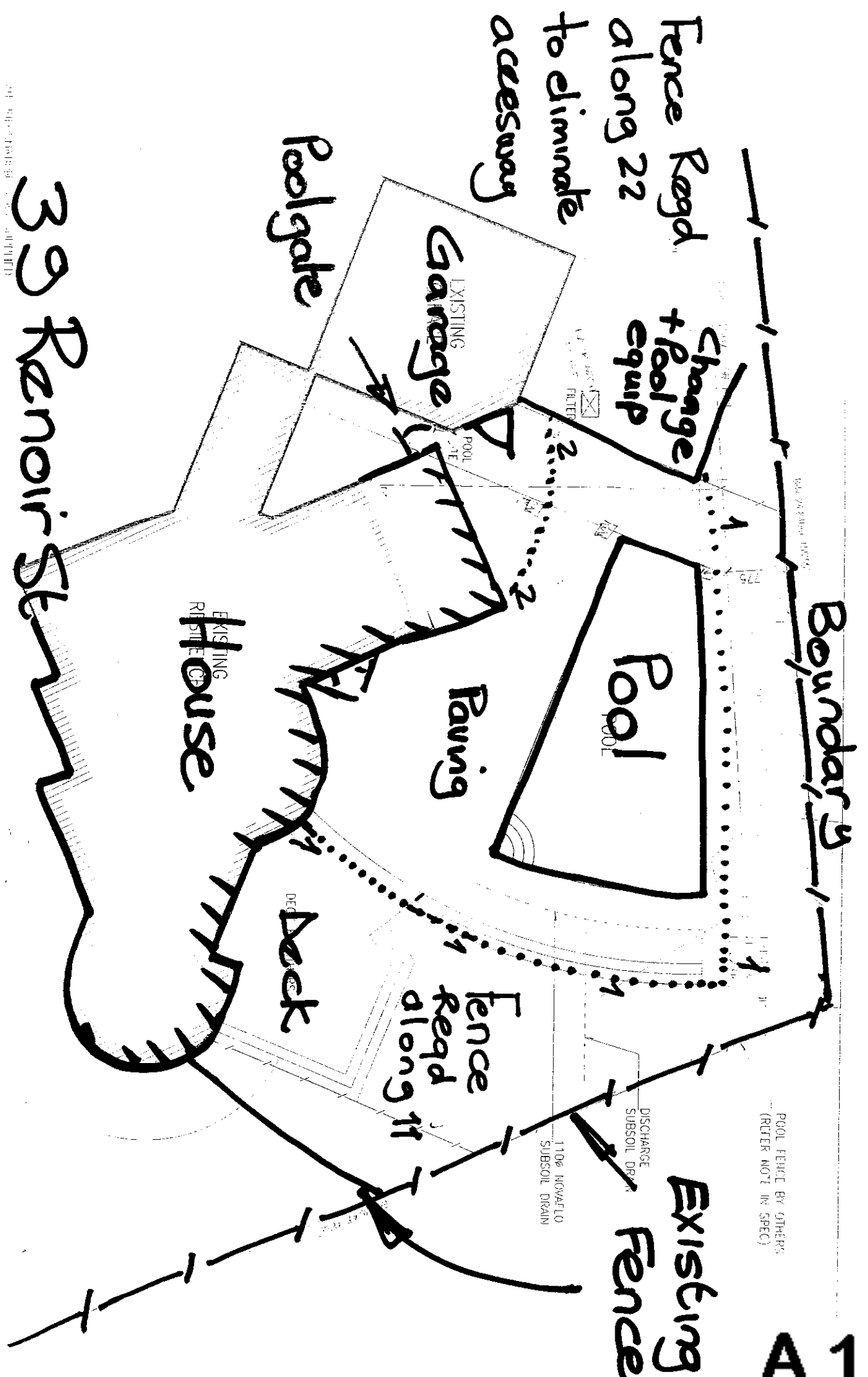
SWP No: \_\_\_\_\_

ABA No: \_\_\_\_\_  
(if applicable)

Chief Executive	
Corporate Services	
City Services	
Moselle	
Consultancy Services	
ECO - WATER	
Strategic Group	
Consent Services	
Field Services	<input checked="" type="checkbox"/>

POOL FENCE BY OTHERS  
(REFER NOTE IN SPEC)

A 11



THE ENGINEER HAS NOT BEEN ADVISED OF ANY CHANGES TO THE ORIGINAL CONTRACT DOCUMENTS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE SITE INFORMATION SHOWN HEREON. THE CONTRACTOR SHALL ADVISE THE ENGINEER OF ANY CHANGES TO THE ORIGINAL CONTRACT DOCUMENTS.

# Exemption Application Form for Spa & Swimming Pools

636044



Waitakere City Council  
Te Taiaroa Waitakere

Send to: Chief Executive  
Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY 1231

For more information:  
Civic Centre, Waipareira Avenue,  
Henderson  
Telephone (09) 839 0400  
Facsimile (09) 836 8001

WAITAKERE CITY COUNCIL

16 JUN 2005

Owners Name: AT & RE Keir

Address of pool: 20 McClintock Rd, Massey SWP 2005 10226  
Lot 35 DP 475

Hereby make application for an exemption from the standard fencing controls relating to pools. I propose to make or have already made the following arrangements for the security of my pool:

Garden equipment to be removed.

4/11

Reasons why proposal should be granted: (See reverse) (See attached)

Address for Correspondence: 20 McClintock Rd, Massey

Application fee: \$250 (one off)

Signature: [Signature]

Telephone Number: 8336284

412 6619

Date: 14-6-05

Note the explanation and requirements on the reverse of this form.

### Office Use Only

Site Address: \_\_\_\_\_

SWP No: \_\_\_\_\_

ABA No: \_\_\_\_\_

(If applicable)

**REASON FOR DISPENSATION**

SWP 20010226 Lot 35DP47534

- 1) Our pool enclosure has been inspected in the past and has been approved in accordance with the Act ( refer attached WCC letter)
- 2) All the enclosing fences have been approved and are in accordance with the Act.
- 3) All the gates leading into the pool from the outside are self closing and self latching and in accordance with the Act

Therefore our pool area is completely protected from outside people entering our pool area and is in accordance with the Act.

The WCC pool inspector has identified two areas of concern;

- 1) A set of French doors that lead and open onto the pool patio area from our living area
  - a) These doors have dead bolts and are completely lockable.
  - b) The leafs themselves are quite narrow in width ( 600mm wide only) and are situated quite a distance from the pool edge ( 3metres away), they are therefore no threat or impose no hazard to any person on the pool side of the doors.
  - c) These doors have always been there and on previous inspections have not been of concern.

2) We have a clothesline within the pool fenced area

- a) We understand from a recent court case that it is permitted to have a living function within the pool area.
- b) This line poses no hazard to the occupants of the premises.
- c) Outside people are not influenced or helped into the pool area because of the position of the clothes line.
- d) What is the difference, we could use mobile clothes horse style clothesline on our deck.
- e) We don't have room for an alternative place for our clothesline on our property.

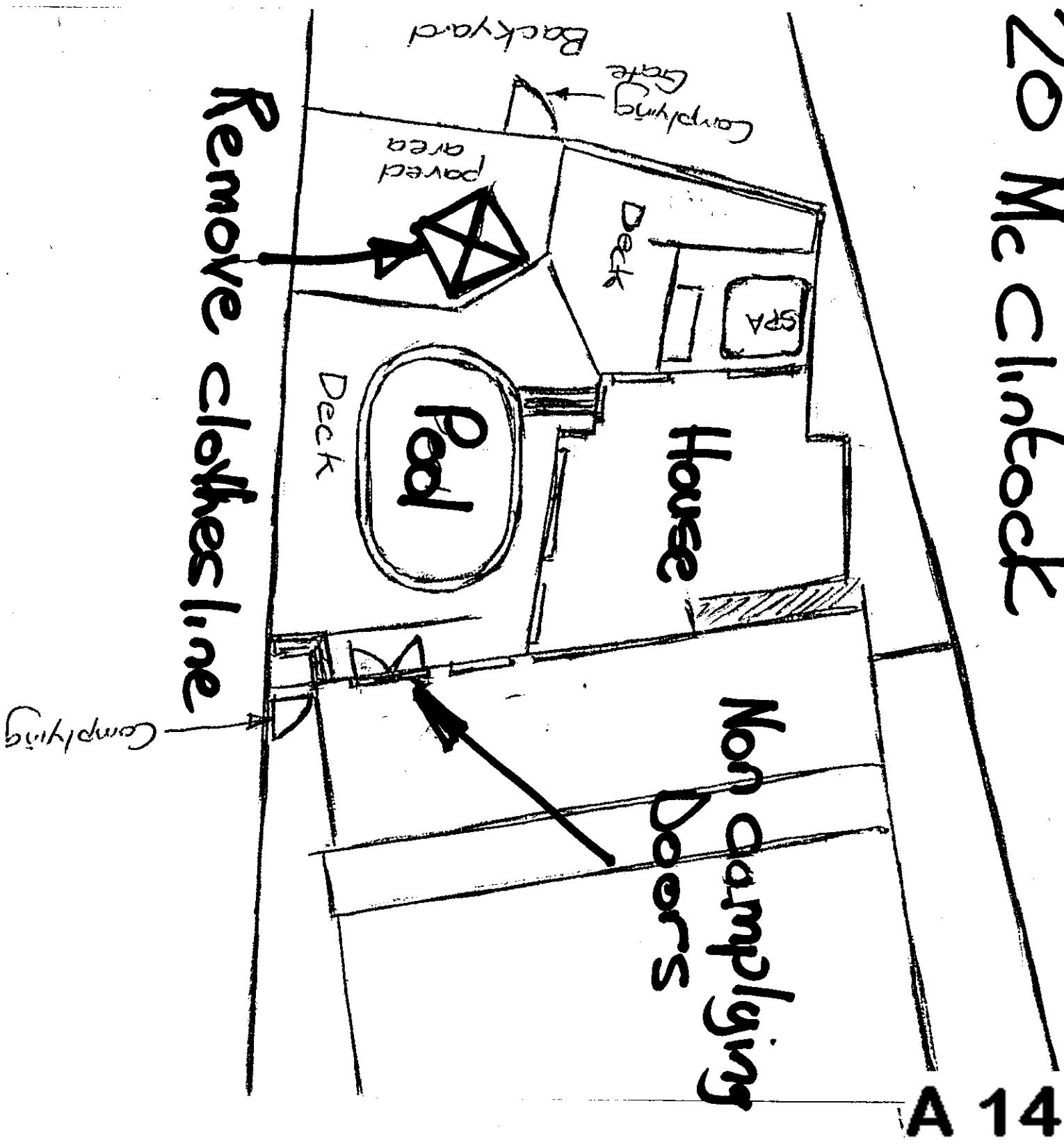
**CONCLUSION**

**External people are kept out of our pool area, in accordance with the Act  
There are no hazards to the occupants of the premises with the pool in its present form**

**An issue of an exemption by WCC would not significantly increase danger to young children**

Chief Executive	
Corporate Services	
City Services Moselle	
Consultancy Services	
ECO - WATER	
Strategic Group	
Consent Services	
Field Se	

# 20 Mc Clinkock



Remove clothes line

Non Complying Doors



Waitakere City Council  
Te Taiaro o Waitakere

Receipt No C78258  
Date 21/6/05

EXEMPTION APPLICATION FORM FOR SPA & SWIMMING POOLS

The Operational Compliance Manager  
Waitakere City Council  
Private Bag 93109  
Henderson

WAITAKERE CITY

OWNERS NAME:

Mr/Mrs/Miss/Ms.....

Keach

OFFICE USE ONLY

SITE ADDRESS:

17 BURGUNDY PARK AV  
HENDERSON

SWP NO:

20040177 + 20040180

ABA NO:

95009779 / 95009920

(IF APPLICABLE)

Hereby make application for an exemption from the standard fencing controls relating to pools.  
I propose to make or have already made the following arrangements for the security of my pool:

The pool was inspected by council on 3.11.99 and all pool fencing and gates were regulation and accepted. The inspector asked for key locks or bolts to be fitted to the doors opening onto the pool area. This was completed.

Reasons why proposal should be granted: (See reverse):

The pool is completely fenced from the outside of the property. It is surrounded by a solid concrete wall on one side ranging in height from 1.5m - 2.0m. It has 3 pool gates all at the regulation height or more, with pool latches attached. (photos enclosed 1 - 6)  
The other side of the pool is enclosed by the house itself. There are 4 doors opening out onto the pool area and 1 door opening in from the pool area - all are fitted with key locks as stipulated by council inspector when he first visited the property in November 1999. All windows opening in that area are doubled latched at heights of .900 & 2.0m. (photos 7 - 8)  
To have all the doors changed to open inward from the pool would require an extensive re-construction of the windows and doors. (photo 9)  
The house itself is situated on large acre site toward the rear and is completely fenced by rock walls and timber fences, and also has an electric gated driveway. The pool access from outside the house is secluded and around the back of the property.

CORRESPONDENCE:

17 Burgundy Park Ave Henderson

APPLICATION FEE: \$250.00 (one off)

Signature:.....

Keach

Telephone No:.....

236-8744 hm mob 021-166-0585

Date:.....

21 June 05

Note the explanation and requirements on the reverse of this form.