

ruling. Gates comply with the requirements of the Act. Thus other than the difference in opinion over what comprises the "immediate pool area", the pool area is secure.

Reasons why the proposal should be granted

There are several compelling arguments

- The grass area which the Council seeks separate fencing, is an integral part of the pool area.
- There is no increased risk to young children from having this area included in the designated pool area. There is no access from the house to this area. This area is fully visible to supervising adults from both within the house and from within the pool area.
- In discussions with Council staff, council officers have not been able to put forward any robust examples of additional risk imposed by the small (5m x 5m) grass area.
- It could be argued that the addition of a second fence would increase risk in that it would have the potential to delay a response in the event a child did get access to the pool area.
- Randerson J determination (ref 29 g of his reserved judgement) lists some activities which would ordinarily be carried out in conjunction with the use of the pool. These he argues are legitimate inclusions in the pool area. The grass area in question is used for :-
 - sunbathing (ref 29g),
 - storing temporary pool equipment (eg pool cover and roller - ref 29g),
 - entertainment (ref 32),
 - water sports equipment temporary storage (kayaks, waveskis – ref 32).
 - play - this is the only soft surface adjacent to the pool and is used as a play area eg for diving into the pool (ref 40)
 - barbecue area (ref 32)All of these activities are carried out "in conjunction with the use of the pool" (ref 29d), and therefore allowable within the pool area (ref 32)
- In 37 and 38 Justice Randerson argues that safety is not simply a matter of restricting access through fencing. He strongly supports the concept that safety arises from responsible behaviour by adults in supervising children in potentially hazardous situations. On this basis, reliance on an additional fence is not a primary solution to improving safety.

Waiver of fee

In a telephone discussion with Mr Wilde it was indicated that there was provision for the exemption fee to be waived in circumstances arising from changes in Council's interpretation. This case would appear to meet those criteria and I accordingly request that the fee be waived.

Inspection of Property

Mr Wilde's letter contemplates that the Exemption Committee may wish to inspect the property. Should this be required I may be contacted at 027 2444260, to arrange a suitable time.

114

Application Form

This is attached. The substance of my application is provided in this letter which should be read in conjunction with the information on your form.

I look forward to the Council's favourable ruling on this matter.

Yours sincerely



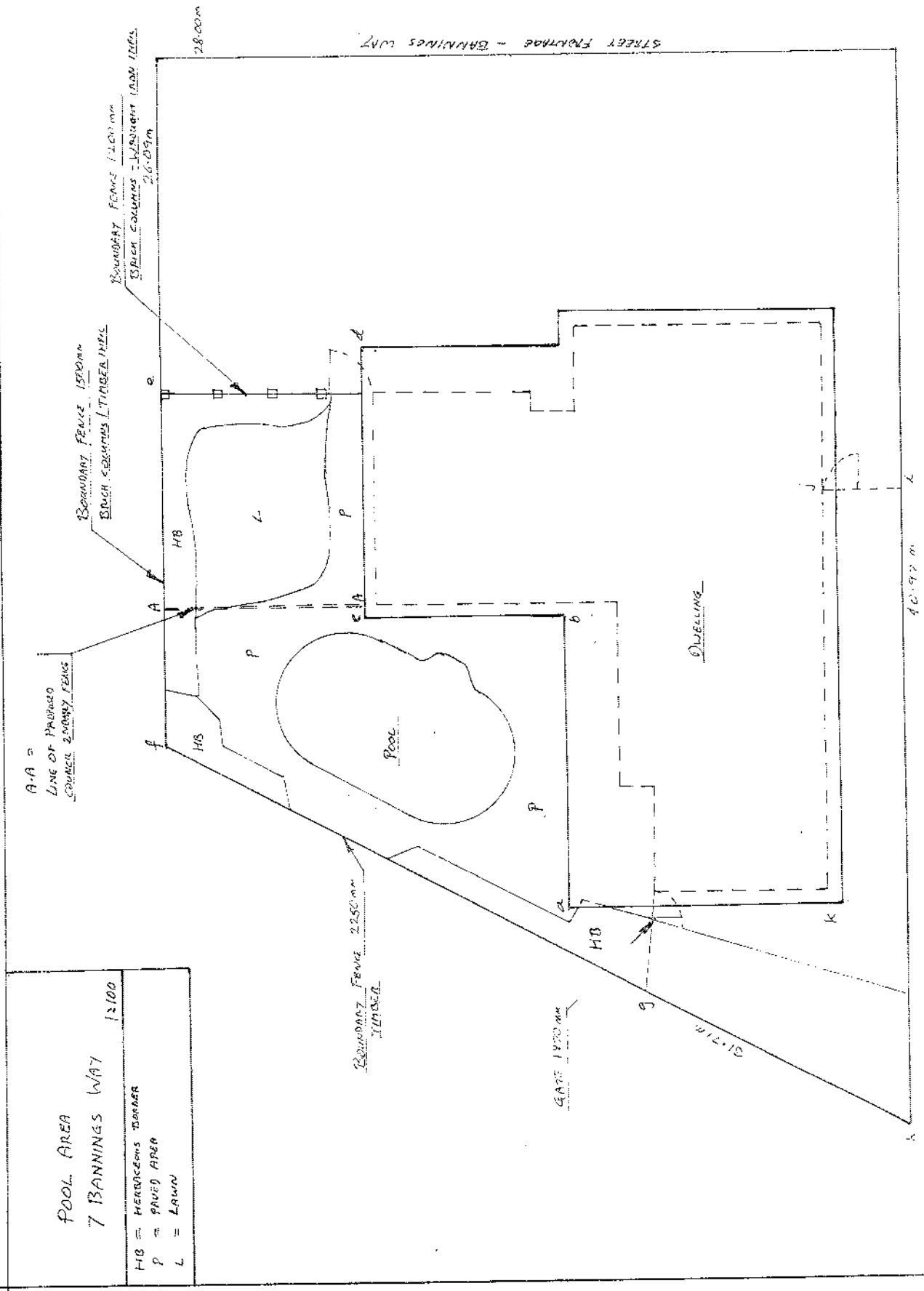
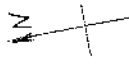
D.V. Marriott

Encl: application form
Payment
Sketch of site showing pool area. (2)

CHEQUE FOR
\$250.00
TO CASHIERS

Chief Executive	
Corporate Services	
City Services Moselle	
Consultancy Services	
EQU. WATER	
Strategic Group	
Consent Services	
Field Services	/

A15



POOL AREA	12100
7 BANNINGS WAY	
HB = HERCULEAN BORDER	
P = PAVED AREA	
L = LAWN	

A16



WAITAKERE CITY COUNCIL

- 1 FEB 2005

Waitakere City Council
Te Taiāo o Waitākere

EXEMPTION APPLICATION FORM FOR SPA & SWIMMING POOLS

623671

The Operational Compliance Manager
Waitakere City Council
Private Bag 93109
Henderson

WAITAKERE CITY

OWNERS NAME:

Dr Mr/Mrs/Miss/Ms... John & Barbara Lusk

OFFICE USE ONLY

SITE ADDRESS:

SWP NO:

ABA NO:
(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:

- Our pool fully complies with the Act
- Pool is fully fenced according to the Act with minimum fence height above ground being 1.4m
- Both gates have been passed by Council officers after remedial work done
- Door from house complies with Act

Reasons why proposal should be granted: (See reverse): Area under contention is the grassed area (see plan) this area is used exclusively for use of pool. The area provides a cool, shaded space during peak U.V. danger time in the afternoons when the bricks & wooden deck become too hot for comfortable relaxation. We can produce many people who would be prepared to sign statements confirming use of lawn in conjunction with the pool.

The pool has been used safely by family, friends & neighbours for over 30 years. An adult is always present. The fencing in its

ADDRESS FOR

CORRESPONDENCE: 554 South Titirangi Rd Titirangi

(Current position prevents young children gaining access to the pool area. Justice Randalson's judgement fully confirms our belief that our pool fully complies with its current fencing.

APPLICATION FEE: \$250.00 (one off)

Signature: B.G. Lusk

Telephone No: 8175419

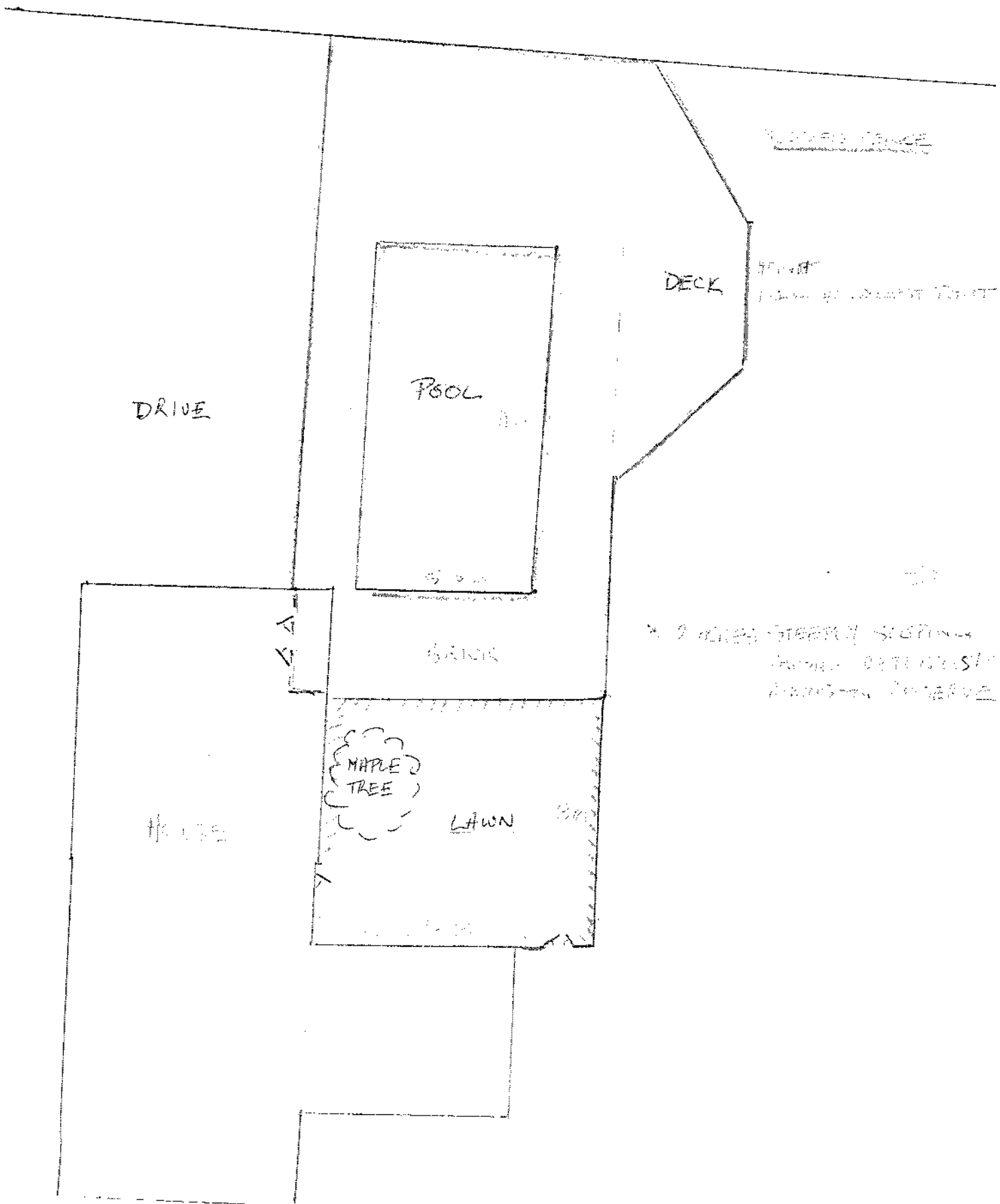
Date: 27/1/05

CHEQUE FOR \$250.00 TO CASHIERS

Planning	
City Manager	
Strategic Group	
Customer Services	
Field Services	<input checked="" type="checkbox"/>

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

A17



~~118~~ A18



554 South Titirangi Road.

~~111~~ 919



554 South Tititima Road

A20



554 South Titirangi Road.

[REDACTED] A21



554 South Titirangi Road.

~~██████~~ A22



Waitakere City Council
Te Taiaro o Waitakere

Waitakere City Council
- 1 FEB 2005

EXEMPTION APPLICATION FORM FOR SPA & SWIMMING POOLS

623672

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 Alison Grayson

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:

Retain current fencing (previously approved as compliant) preferably
but if this is not possible an alternative proposal is made
to ~~enclose~~ house deck - see detail on attached doc's

Reasons why proposal should be granted: (See reverse) The house is a long way
from neighbouring houses and granting of this exemption
will not significantly increase the danger to young
children - see details on attached doc's

ADDRESS FOR

CORRESPONDENCE: 12 Kooke Road, Titirangi, Auckland

APPLICATION FEE: \$250.00 (one off) Change in use only

Signature: Alison Grayson

Telephone No: (09) 817-4611 or 021-600-760

Date: 28 Feb 2005

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

A23

Application for pool fencing exemption.

**Mayson Pool, 14 Kopiko Road,
January 2005**

Granting of this exemption will not significantly increase the danger to young children for the following reasons:

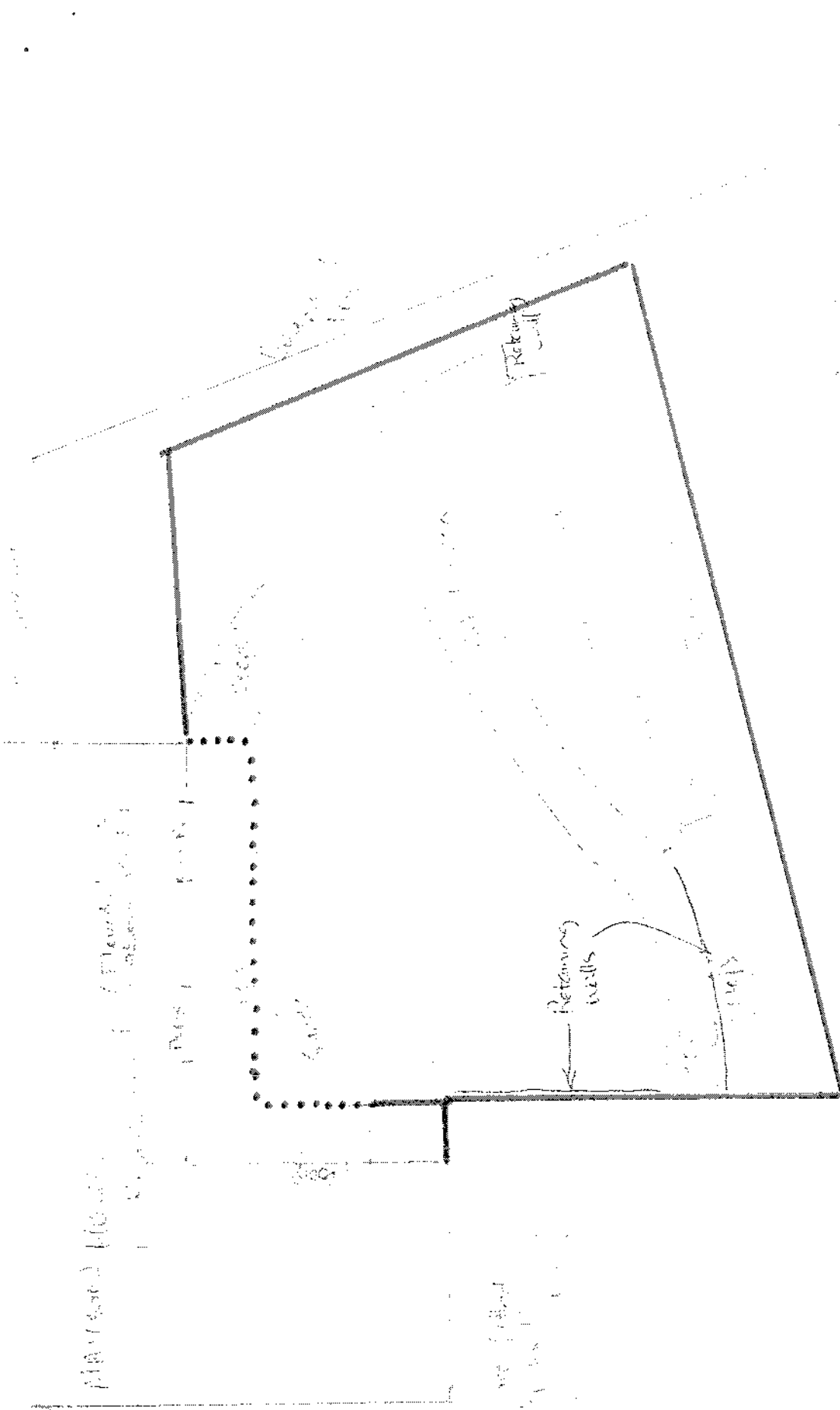
1. Reasons.

- 1.1. The fencing has been interpreted as compliant with the legislation since it was moved under the direction of council officers when the pool was commissioned in 1996. Although steps have been added from the deck to the pool area, this did not alter the compliance of the pool fencing as approved, as the dwelling doors constitute the fencing.
- 1.2. The dwelling doors were replaced recently as they had deteriorated, and when making the decision as to replacement doors, we specifically installed doors which were of a type which complied with Council requirements.
- 1.3. No young children can currently access the pool except through gateways and doorways of design approved for other pool owners. The council officers proposed re-fencing scheme would therefore not make the pool safer for a young child

1.4 Unfair burden.

The council officers proposed re-fencing scheme would not make the pool safer for a young child and imposes an unfair burden on the pool owner because:

- (a) The pool has a weir which needs to be regularly cleared of debris when the main pool is cleaned. Since the weir area would have a separate gate below the retaining wall, access to the weir from the main pool under the council new plan would require manouevering long handled, cumbersome equipment through two pool gates with associated difficulties of getting and keeping these gates open to do this.
- (b) The weir pool design limits sun lounging space to one side of the pool only and the proposed plan will result in a cramped space on this side. The whole property is approximately three quarters of an acre and it is not necessary or desirable to be constricted into one small part of it. The property is in a low density housing area and the pool itself is a long distance from the road and neighbouring houses. Granting the exemption will not significantly increase the danger to young children
- (c) The cost of compliance with the close fencing plan is approx.\$6000 (a quote is available) which of course is on top of the costs incurred for fencing approved in 1996 and despite the fact that there has been no change to the legislation and results only from a re-interpretation by council officers.
- (d) The requirement for closer fencing is not equitable. Real estate pages regularly publicise pools which are do not have such close pool fencing. There is wide variation between interpretations of this legislation and allowing the current fencing arrangements will not significantly increase the danger to young children.



- Plastered floor (interior)
- Plastered walls (interior)
- Plastered ceiling (interior)
- Plastered floor (exterior)
- Plastered walls (exterior)
- Plastered ceiling (exterior)
- Plastered floor (interior) (1.2m x 1.2m)
- Plastered walls (interior) (1.2m x 1.2m)
- Plastered ceiling (interior) (1.2m x 1.2m)
- Plastered floor (exterior) (1.2m x 1.2m)
- Plastered walls (exterior) (1.2m x 1.2m)
- Plastered ceiling (exterior) (1.2m x 1.2m)

House plan of Mayan house / pool
 showing the layout of the house and the pool.

A26

Sketch
 The plan of Mayan house / pool
 at the village of Rio de Janeiro - Rio de Janeiro, Brazil

14 Kipiko Rd

Fence required to prevent
direct access from lawns etc.
To follow line of paving or
uniform distance at
maximum width

PAVED

