

## 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.

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## 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 sub clause (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

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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."

#### FENCING OF SWIMMING POOLS AMENDMENT ACT 1989

Public Act 1989 No 117

Date of assent 20 November 1989

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| 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.

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Waitakere City Council  
Te Tatao o Waitakere

**APPLICATION FOR EXEMPTION of SPA & SWIMMING POOLS**

**Fencing of Swimming Pools Act 1987**

**Please Note**

In order for an exemption application to be accepted, the Council it will need to be fully appraised prior to being referred to the Swimming pools Exemption Committee for decision. Any matters that are omitted by the applicant may result in the application being referred back to the applicant for further clarification. A further inspection of the pool may be required.

**OWNERS NAME: (print)**

Tom Ingho Koene

**Address of Pool: (print)**

112 Forest Hill Rd. Henderson Valley

**ADDRESS FOR CORRESPONDENCE (if different from site address) (print)**

Information to be provided:

- PLANS:** A Sketch plan must accompany all applications, including all measurements of the immediate pool area, the pool size and location. The sketch is to include boundary fencing and also the dwelling wall, if this forms part of the fence. The materials of which they are constructed must be stated. Photographs may be provided for clarification.
- REASONS justifying the proposal.** Council may grant an exemption where the circumstances warrant a dispensation from the statutory requirements for pool fencing. Your attention is drawn to Section 6 of the Act and Clause 11 of the Schedule. An exemption may be granted or declined in the Council's discretion and if granted conditions may be imposed. A copy The Fencing of Swimming Pools Act 1987 is available on Council's website [www.waitakere.govt.nz](http://www.waitakere.govt.nz)

Please list those matters which at the date of this application do not comply with the statutory requirements

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

AS

**Please list those matters for which an exemption is sought**

- ① 2 sets of frenchdoors / deadlocked / but opening towards pool area
- ② pedestrian access way to poolhouse, where there is no alternative access.

**Reasons why the application should be granted**

At the time of construction the layout of buildings and pool area were designed to integrate. To change the lay-out would be unreasonable. We have taken all steps reasonable to comply with the requirements to create and ensure a very safe environment.

If there is insufficient space on this form please use additional sheet(s) and continue

I/we apply for an exemption from the requirements of the Fencing of Swimming Pools Act 1987 set out above and certify that all other pool fencing requirements are in accordance with the Act. A cheque for the application fee of \$250 is attached.

Signature(s): [Signature]  
Telephone No: (09) 836 9428  
Mobile No: \_\_\_\_\_  
Date: 11-4-08

Complete this form and post with all attachments to:

The Chief Executive  
Waitakere City Council  
6 Henderson Valley Rd  
Henderson  
Waitakere 0612

<b>Office Use Only</b>
Site Address: _____
SWP No: _____
ABA No: _____ (if Applicable)

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# Exemption Application Form for Spa & Swimming Pools



Send to: Chief Executive  
Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY 0612

For more information:  
Civic Centre, 6 Henderson Valley Road  
Henderson  
Telephone (09) 839 0400  
Facsimile (09) 836 8001

Owners Name: DARRELL BONE

Address of pool: 328 WEST COAST ROAD GLEN EDEN.

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)

THE SWINGING DOOR IN QUESTION SOME PURPOSE IS USED FOR ACCESS TO A GARAGE WHERE A CLASSIC VEHICLE IS STORED. THE DOOR CANNOT SWING INWARDS AS THE VEHICLE TAKES UP THE WHOLE GARAGE AND THE FRONT OF THE VEHICLE IS WHERE THE DOOR IS. THERE IS NO INTERNAL

Address for Correspondence: ACCESS TO THE GARAGE FROM THE HOUSE.

Application fee: \$250 (one off) 328 WEST COAST ROAD GLEN EDEN.

Signature: DM Bone

Telephone Number: 027-243-8988

Date: 20-11-07

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

<b>Office Use Only</b>
Site Address: <u>1/328 WEST COAST RD, GLEN EDEN.</u>
SWP No: <u>1995-18179</u>
ABA No: _____ (if applicable)

**ASB**

ASB Bank Limited Avondale

Date 20-11-07

Pay WAITAKERE CITY COUNCIL

\$250-00

The sum of TWO HUNDRED & FIFTY DOLLARS

D.M. BONE

3045 CHEQUE DUTY PAID

⑈ 196759 ⑈ 23045 ⑈ 029191700 ⑈

328 WEST COAST ROAD  
GLEN EDEN

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3/08.

# Exemption Application Form for Spa & Swimming Pools



Send to: Chief Executive  
Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY 0612

For more information:  
Civic Centre, 6 Henderson Valley Road  
Henderson  
Telephone (09) 839 0400  
Facsimile (09) 836 8001

WAITAKERE CITY COUNCIL  
27 DEC 2007

Owners Name: Ian & Marion Jost

Address of pool: 277 Titirangi Road, Titirangi

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:

Additional fencing and gating was built in April 2003, after the introduction of the council's new policy. This complies with council regulations (as noted in your letter of April 29 2003)

Reasons why proposal should be granted: (See reverse) ① The current fencing appears to comply with council regulations ... but more importantly:

② The interests of safety would not be served by the pushing back of the fence-line a distance of only a very few metres. There are no buildings or obstructions of any kind within the current fencing.

Address for Correspondence: 277 Titirangi Road

Application fee: \$250 (one off)  
Signature: [Signature]

Telephone Number: 0274 887 037

Date: 27/12/07

FIELD APPLICATION  
TJW  
20/04/08. Decision Exemption

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

<p>Office Use Only</p> <p>Site Address: <u>277 TITIRANGI RD, TITIRANGI</u></p> <p>SWP No: <u>SWPM 1996-12410.</u></p> <p>ABA No: _____ (If applicable)</p>	<p>31/12/07. District no. 316949(7)</p>
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# 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.



**Legend**

-  Railway Station
-  Railway
-  Building Footprint
-  Sub 223
-  Parcel
-  Road
-  Stream
-  Water Body

277 TITIKAWA RD.  
TITIKAWA.

Cadastral information from  
Land Information New Zealand  
Digital Cadastral Database DGD6  
Crown Copyright Reserved.

N  
Scale = 1:231  
10 Metres  
11/12/2007

Services shown on public authority land are not public drains unless used as through drains.  
While Council endeavours to provide accurate spatial data no guarantee as to the completeness and accuracy of the data shown on this plan can be given.  
All information, including levels and locations, are not of survey grade accuracy and should be verified on site.  
For enquiries about the information shown please phone the call centre (58) 839 0400

  
**Wairakere City Council**  
Te Hāroa o Wairakere

All

17 APR 2008

Waitakere City Council  
Te Tatua o Waitakere

# Exemption Application Form for Spa & Swimming Pools

CHEQUE FOR  
\$ 250.00  
TO CASHIERS  
Approved

Send to: Chief Executive  
Waitakere City Council  
Private Bag 93109  
Henderson  
WAITAKERE CITY 0612

For more information:  
Civic Centre, 6 Henderson Valley Road  
Henderson  
Telephone (09) 839 0400  
Facsimile (09) 836 8001

011963

RECEIVED

Owners Name: NL + BR Haggro  
Address of pool: 113 Totara Road, Whenuapai

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:

security stays.  
All doors + windows opening to pool have to  
French doors - Keyed locks (doors) at 1.9m height  
plus doorskey lock also, at 900cm  
Inspected and passed by WCC.

Reasons why proposal should be granted: (See reverse) Swimming pool and surround  
permit passed by WCC 2001  
There would be considerable expense incurred for  
replacement doors to be fitted and they would interfere  
with windows alongside them, if they opened inward

Address for Correspondence: 113 Totara Rd Whenuapai

Application fee: \$250 (one off) enclosed cheque \$250.00

Signature: NL Haggro BR Haggro

Telephone Number: 416 5494

Date: 9/4/08

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

Chief Executive	
Corporate Services	
City Services	
Moselle	
Consultancy Services	
ECD - WATER	
Strategic Group	
Consent Services	
Field Services	
LEARN	

Office Use Only

Site Address: 113 Totara Road Whenuapai  
113 Totara Road Whenuapai

SWP No: REC-2-193

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

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# 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.

