

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 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

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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CONTENTS

	Title
1	Short Title
2	Schedule amended

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.

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

A 4



Waitakere City Council
Te Taiāo o Waitakere

EXEMPTION APPLICATION FORM FOR SWIMMING & SPA POOLS

The Operational Compliance Manager
Waitakere City Council
Private Bag 93109
Henderson
WAITAKERE CITY

OWNERS NAME:

Mr/Mrs/Miss/Ms Frank McDonald

OFFICE USE ONLY

SITE ADDRESS:

SWP NO: SWIV/2007/9

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:

As shown on Plan A attached, all requirements outlined by the inspector have been completed leaving just the swing door giving access to pool to be executed.
- Pool in present state is empty.

Reasons why proposal should be granted: (See reverse) I wish to have the doors but open slightly the pool area except for the following reasons 1 - the Area the doors give access to is used only for when the pool is being used i.e the outside living area is situated elsewhere on the property. It is kept locked and unlocked (as are the latched gates) and deadbolts located @ the top of the door are unlocked when there is separate use of Pool. *1

ADDRESS FOR CORRESPONDENCE: 54 Roy Maloney Drive
Henderson

APPLICATION FEE: \$250.00

Signature: _____

Telephone No: 838 6658

Date: 027-48 76150

*1 Refund of exemption fee is requested as when the plans were submitted to council in 2006 the doors complied and cost of replacing the doors would have prevented the pool from being constructed in present location.

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

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.

Scale 1:100

PLAN A



pool deck area
(Brush stroke)

proposal pool fence & gates

* proposed window latch

proposed door bolt

Lockable

self closing latch on self closing gates (dead bolts at top of door)

150mm TRUNK
150mm SEWER
EXISTING

Property Boundary

PROPERTY BOUNDARY

Ground level @ base of 1.2m pool

150mm UPVC (covered) EXISTING

pool pipes made unclimbable

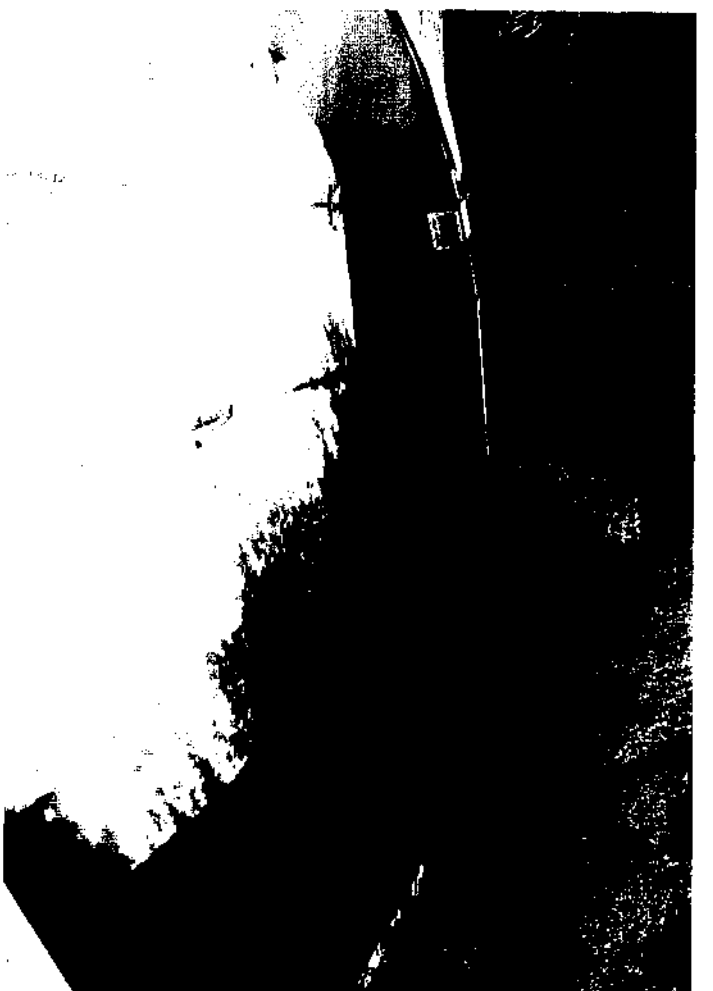
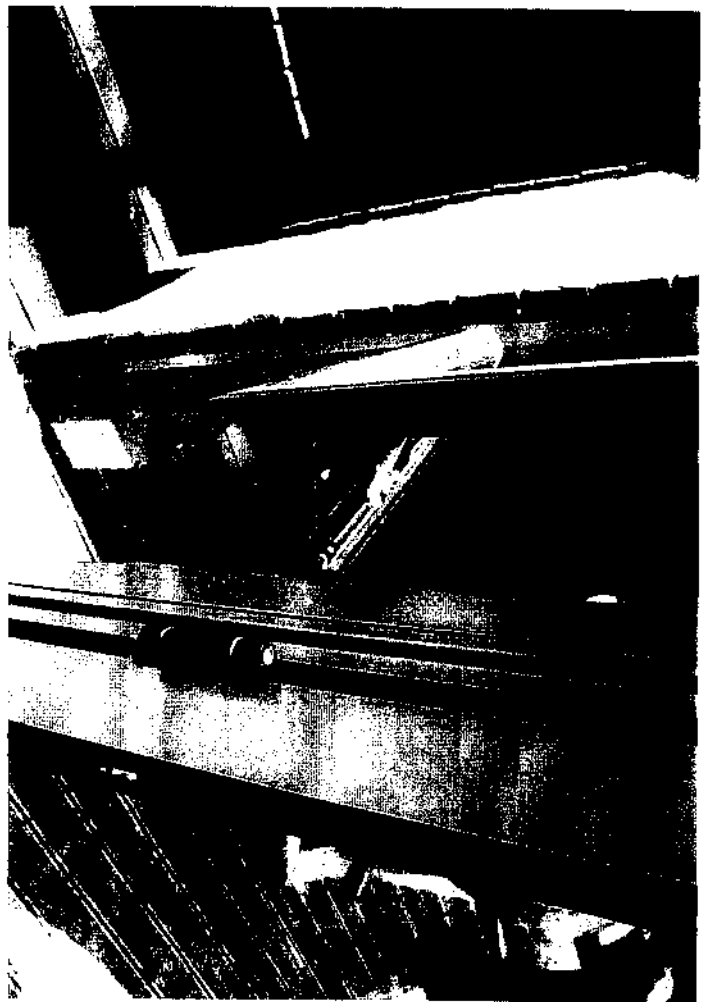
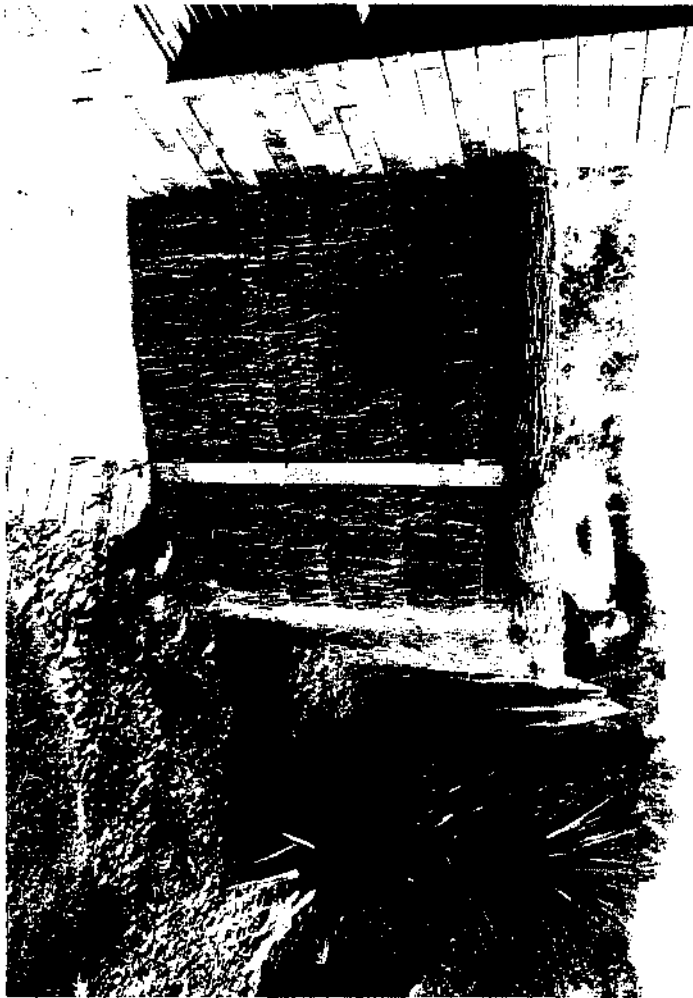
proposed connection to existing SS

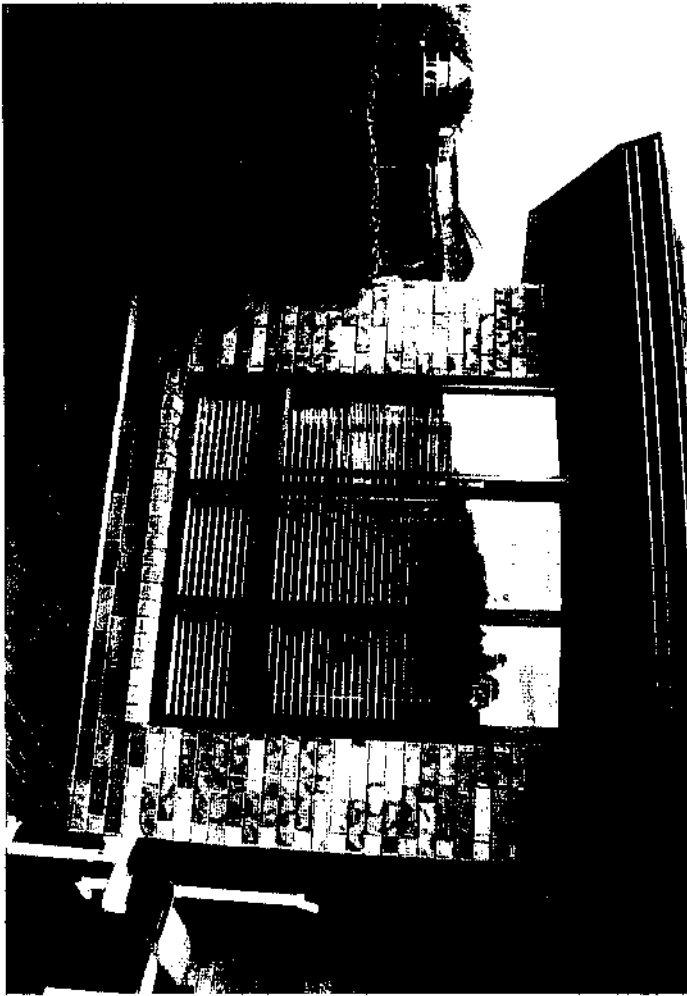
DECK @ height of pool EXISTING

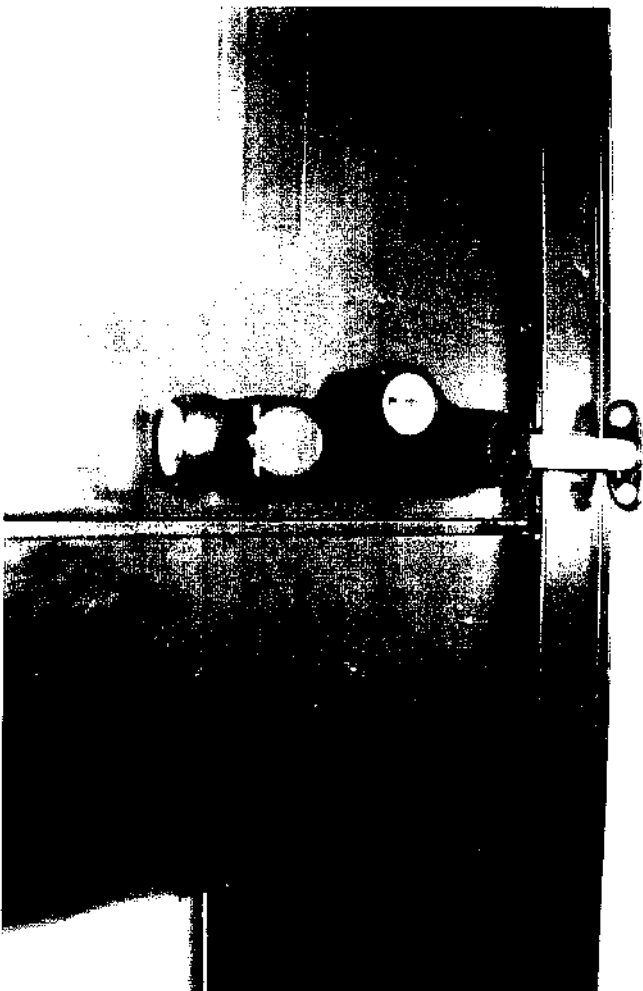
gate

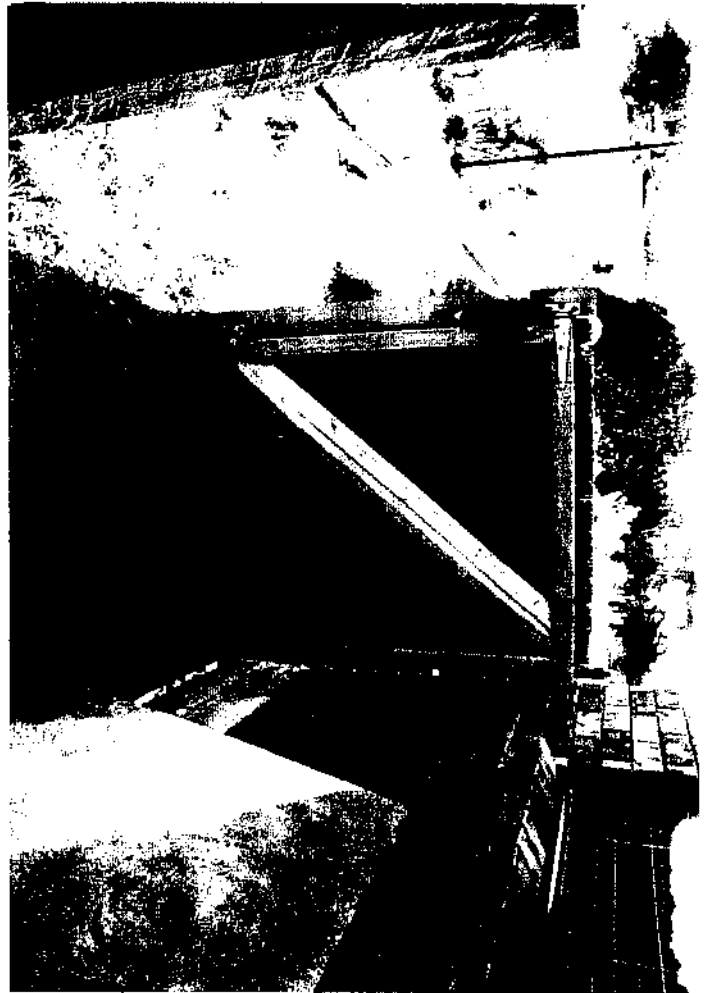
Doors for which exemption is being applied for

gate brace made unclimbable









10 AUG 2007



Waitakere City Council

Te Taiaro o Waitakere

CHEQUE FOR \$250.00 TO CASHIERS

EXEMPTION APPLICATION FORM FOR SWIMMING & SPA POOLS

706574

173

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 JOHN C TIK

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:

- Install new deck rail trellising and fence board extensions by front stairs (or other agreed alternative)
Refer attached letter.

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

- The pool area is over 25 years old and forms integral part of the house recreational area which has been developed over the last 26 years.
- The pool area is fully secured and does not significantly increase danger to young children.
- The security of the pool area satisfies the necessary level and intent of the Act.

ADDRESS FOR CORRESPONDENCE: SE KIRBY STREET, GLENDENE

APPLICATION FEE: \$250.00

Signature: [Handwritten Signature]

Telephone No: 8371199 9175000 Daytime

Date: 6 AUGUST, 2007

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

Table with 2 columns and 10 rows for routing: Chief Executive, Corporate Services, City Services, Con. Agency Services, EOD, etc.

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.

6 August 2007

The Operational Compliance Manager
Waitakere City Council
Private Bag 93109
Henderson
WAITAKERE CITY

Attention Mr John Koolen

Dear Sir

Exemption Application for Swimming/Spa Pools
Your Reference: SWP SWIM/1999/12918
58 Kirby Street, Glendene

Please find attached our application for the above with supporting plan and photographs and cheque for \$ 250.00 for your consideration.

In support of this application and with reference to our previous meetings/discussions with Mr Neville Exler, we wish to elaborate on our situation.

We purchased this property in 1984 complete with in ground pool. The pool area was completely open at that stage with only minimal boundary fences. In the first few years, we progressively fenced, gated and secured the pool recreational area for our use, especially with our own young children.

In 1999/2000 we extended the house and as part of that process, further pool security requirements were fitted such as:

- i. All house sliding doors leading to pool area (3 of) have high level deadlocks.
- ii. All opening windows that could lead to pool area (7 of) have fixed safety latch fittings that prevent them opening more than 100mm.
- iii. The two exterior gates have auto closing latched devices.
- iv. All exterior fencing/walls to properties adjoining the pool area have a minimum 1.5m height.

We have developed the pool area into a secure but integral part of our outdoor recreational area.

This is supplemented with extensive decking, and grassed areas on the other of the house which was used by our children for normal recreational activities.

We strongly believe our pool area, with the specified minor improvements, is very secure especially from young children which has been demonstrated from the last 20 years of family use.

→ 8 15 2007

The security, in our opinion, achieves the necessary level and intent of the Act, and appears to be in keeping with many of the pool entertainment areas of many other dwellings of this era within Waitakere City.

We await your consideration and are happy to discuss this matter further if necessary in for a mutually acceptable outcome.

Yours faithfully

A handwritten signature in black ink, appearing to read "John Tik". The signature is stylized with a large, looping initial "J".

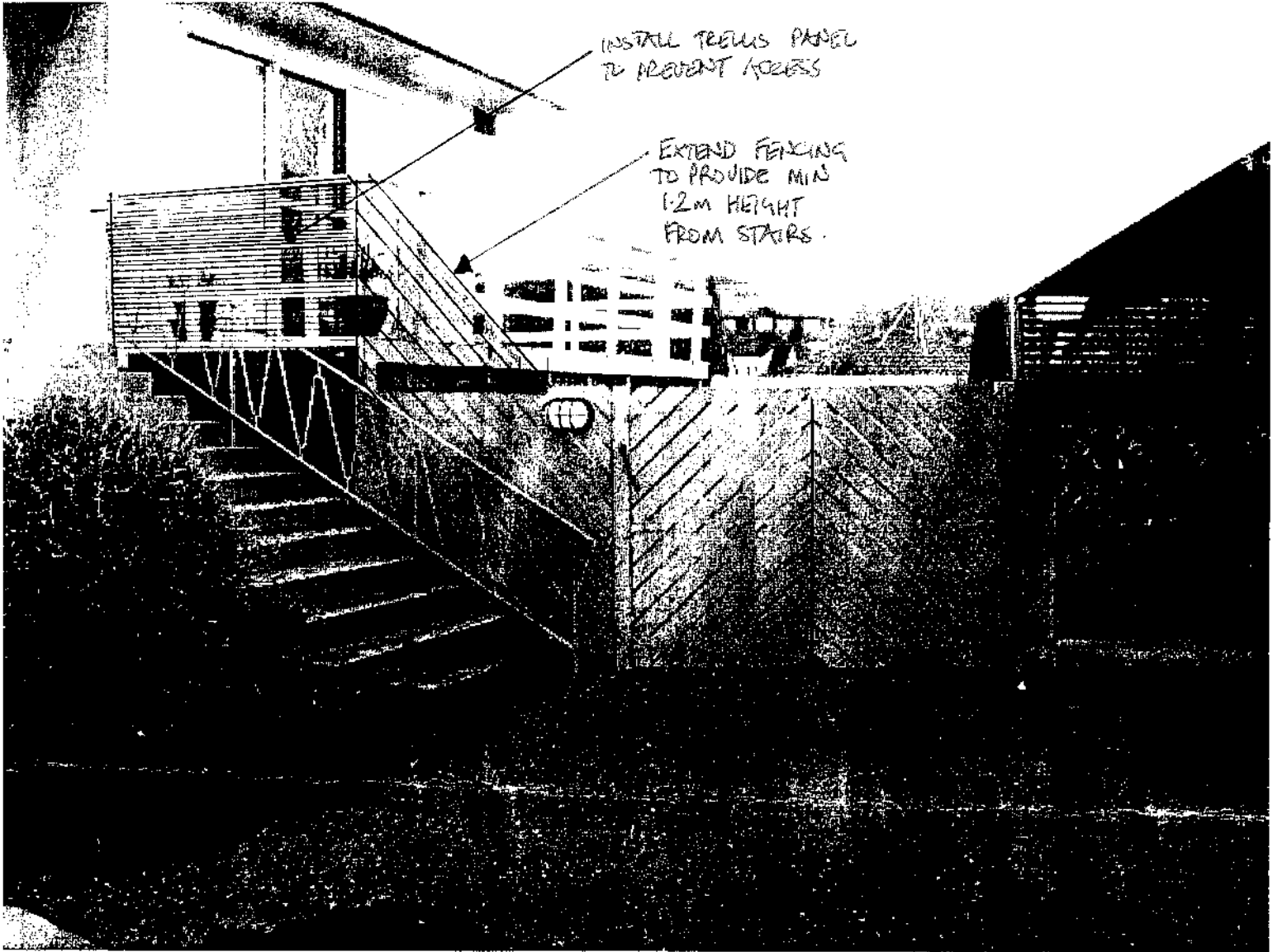
John Tik

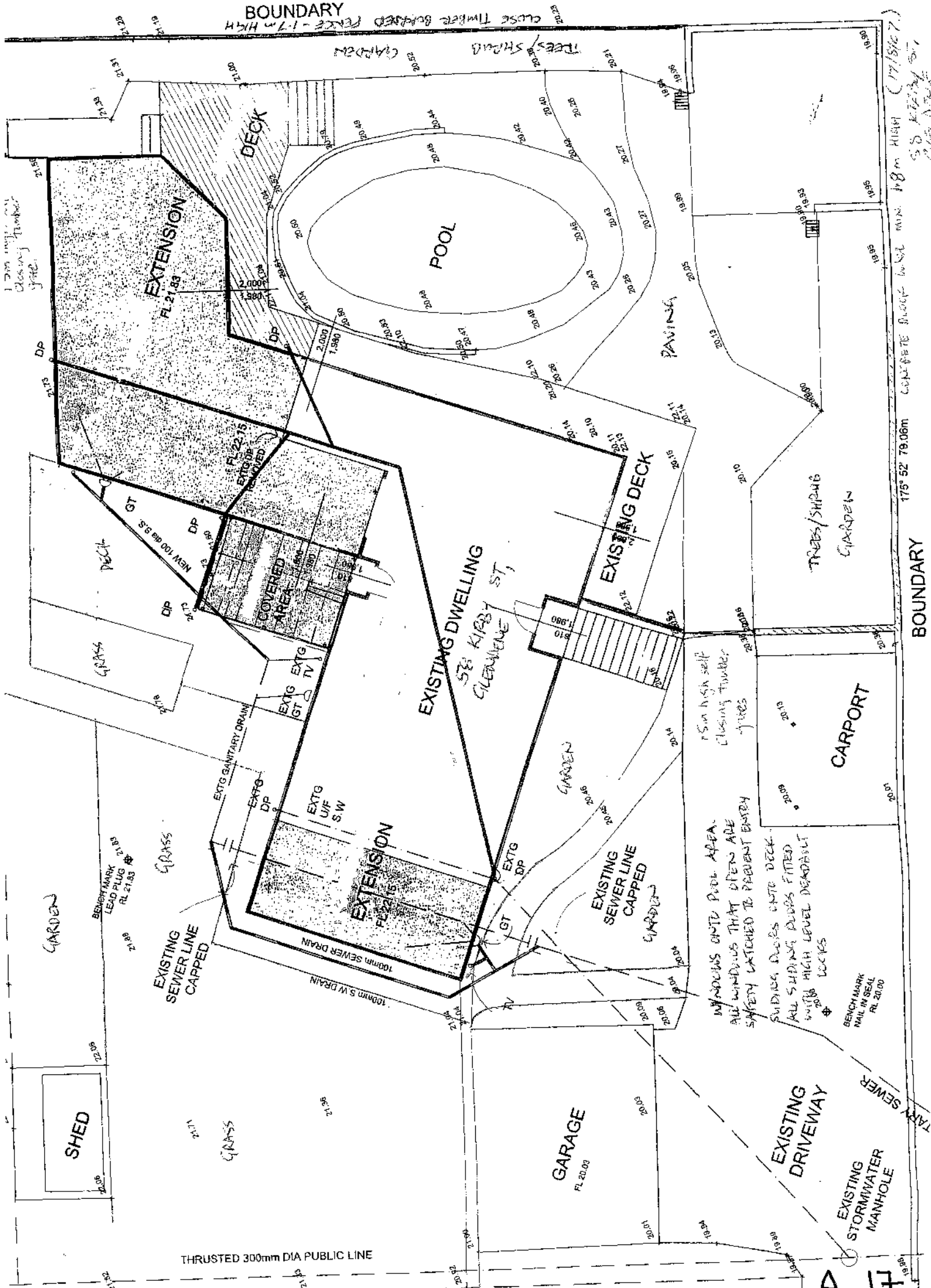
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PROPOSED WORKS .

INSTALL TRELLIS PANEL
TO PREVENT ACCESS

EXTEND FENCING
TO PROVIDE MIN
1.2M HEIGHT
FROM STAIRS .





1.5m high self closing timber fence.

BOUNDARY
CLOSE TIMBER BACKED FENCE - 1.7m HIGH

175' 52" 79.06m
CONCRETE BLOCK WALL MIN 1.8m HIGH (17/5/27)
S.B. KIRBY ST
GLENVIEW

BOUNDARY

1.5m high self closing timber fence

WINDOWS ONTO POOL AREA.
ALL WINDOWS THAT OPEN ARE
SAFETY LATCHED TO PREVENT ENTRY.
SLIDING DOORS ONTO DECK.
ALL SLIDING DOORS FITTED
WITH HIGH LEVEL DEADBOLT
LOCKS.

BENCH MARK
MAIL IN SEAL
RL 20.00

BENCH MARK
LEAD PLUG
RL 21.83

THRUSTED 300mm DIA PUBLIC LINE

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Exemption Application Form for Spa & Swimming Pools

6 Feb 07



Waitakere City Council
Te Tatao o Waitakere

CHEQUE FOR
\$2500
TO CASHIERS ATTACH

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

689832

Owners Name: PAUL & PAULINE RENALL
Address of pool: 78 OPAHUKU ROAD, HENDERSON VALLEY, WAITAKERE 0612

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 already has an exterior pool fence with our house making up part of it. We are proposing to parlock or steel close the two gates opening out from the pool area. All our range-sliders opening into the pool area have locks placed at the top. When our house is locked no access can be made to pool.

Reasons why proposal should be granted: (See reverse) Our pool was installed at the stage of building our new home in 1996/97. After working closely with Council to ensure it complied, it was built and landscaped to blend in with the surroundings. This has not left any space for another fence. We have four sons 25, 23, 20 & 20, no grandchildren. Our house is approx 500 metres up ^{Australia} ^{down} ^{PTC}
Address for Correspondence: 78 OPAHUKU ROAD HENDERSON VALLEY WAITAKERE 0612

Application fee: \$250 (one off)

Signature: [Signature]

Telephone Number: 09 814 9518^{HM} or 09 412 9120 WK

Date: 22ND FEBRUARY 2007

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

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

Office Use Only

Site Address: 78 OPAHUKU RD HENDERSON VALLEY, WAITAKERE CITY, C. 2

SWP No: _____

ABA No: _____
(If applicable)

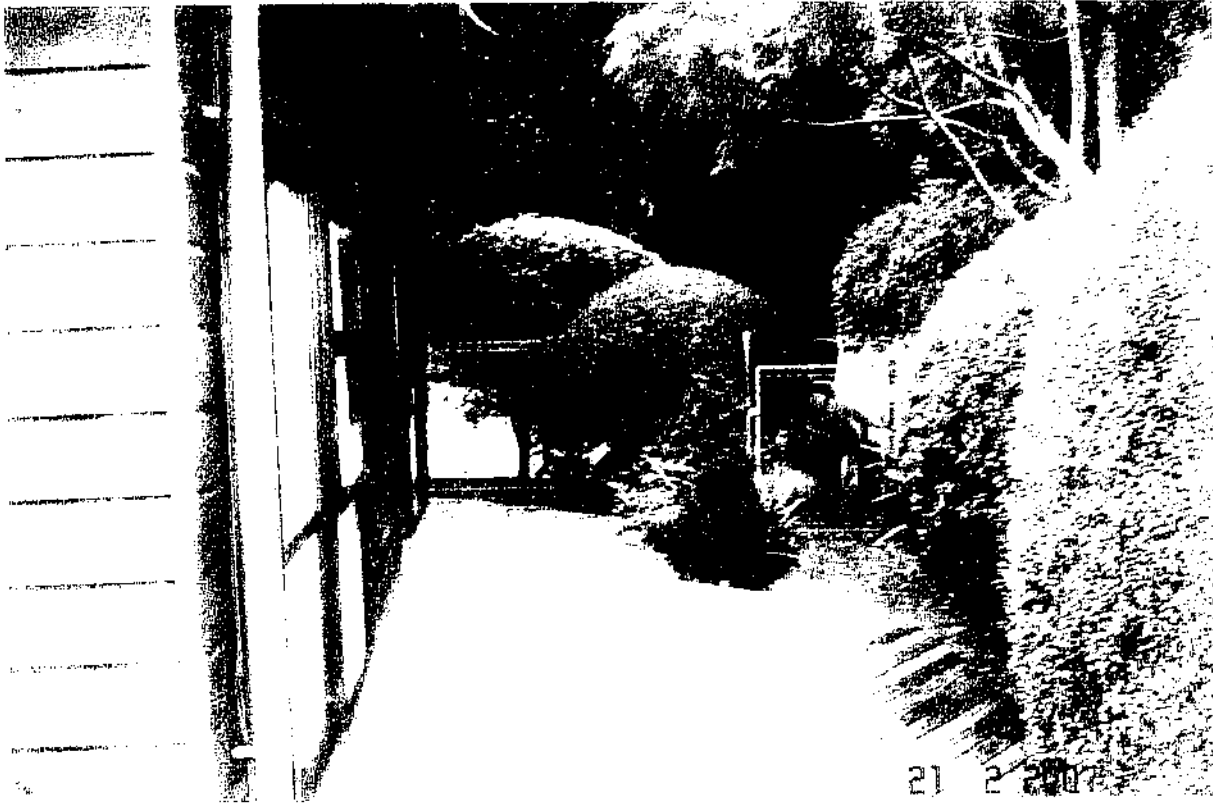
A 18

a right of way. It is an extremely steep driveway and surrounded with dense waitakere bush. We have no foot traffic to our property due to this driveway we have no children or car property. Our house is open plan living where the pool can be seen from most of the rooms especially Kitchen, Dining, lounge and Day Room. The house is locked when we leave the property.

We have lived here for ten years in September's

GATE 1

1



75 000 000 100 100

2

REMAINING GAP 3 METRES



75 000 000 100 100

3

Pool Wall 1 3 MEMOS

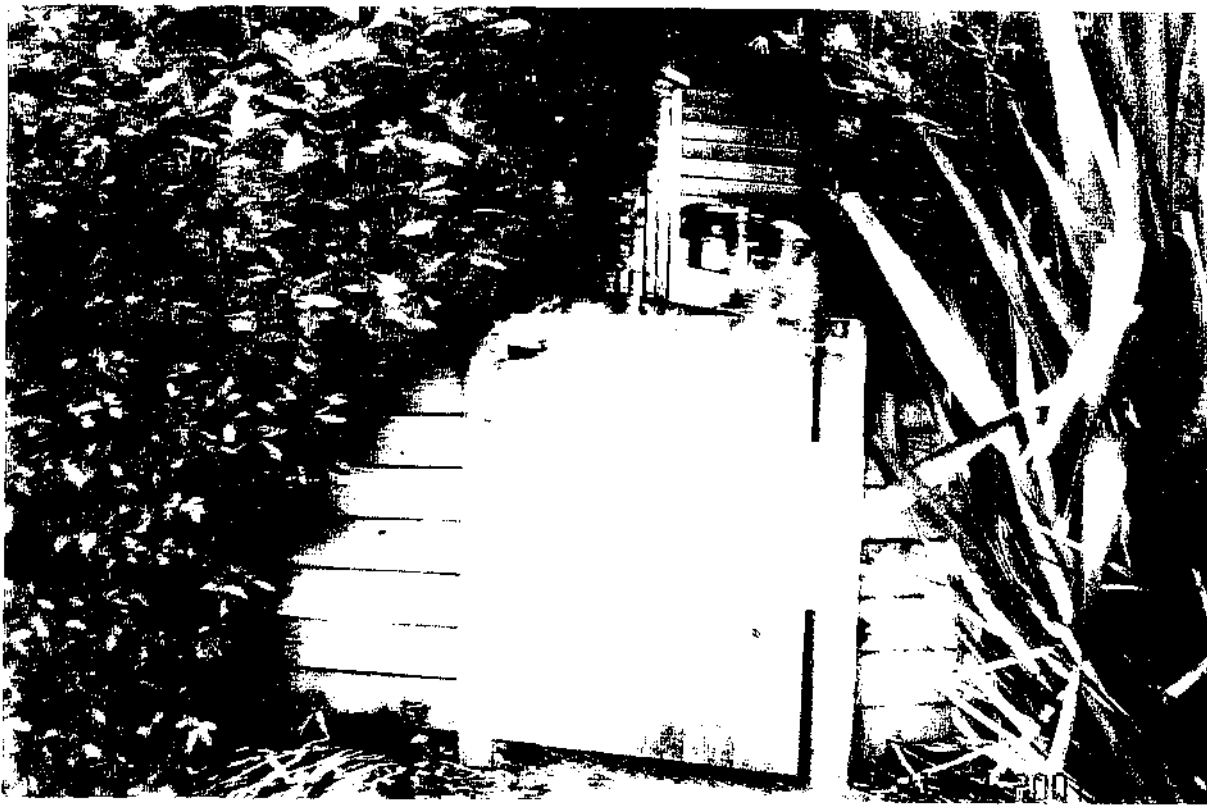


79 001118 101

21 2-2007

4

GATE 2



79 001118 101

(4)

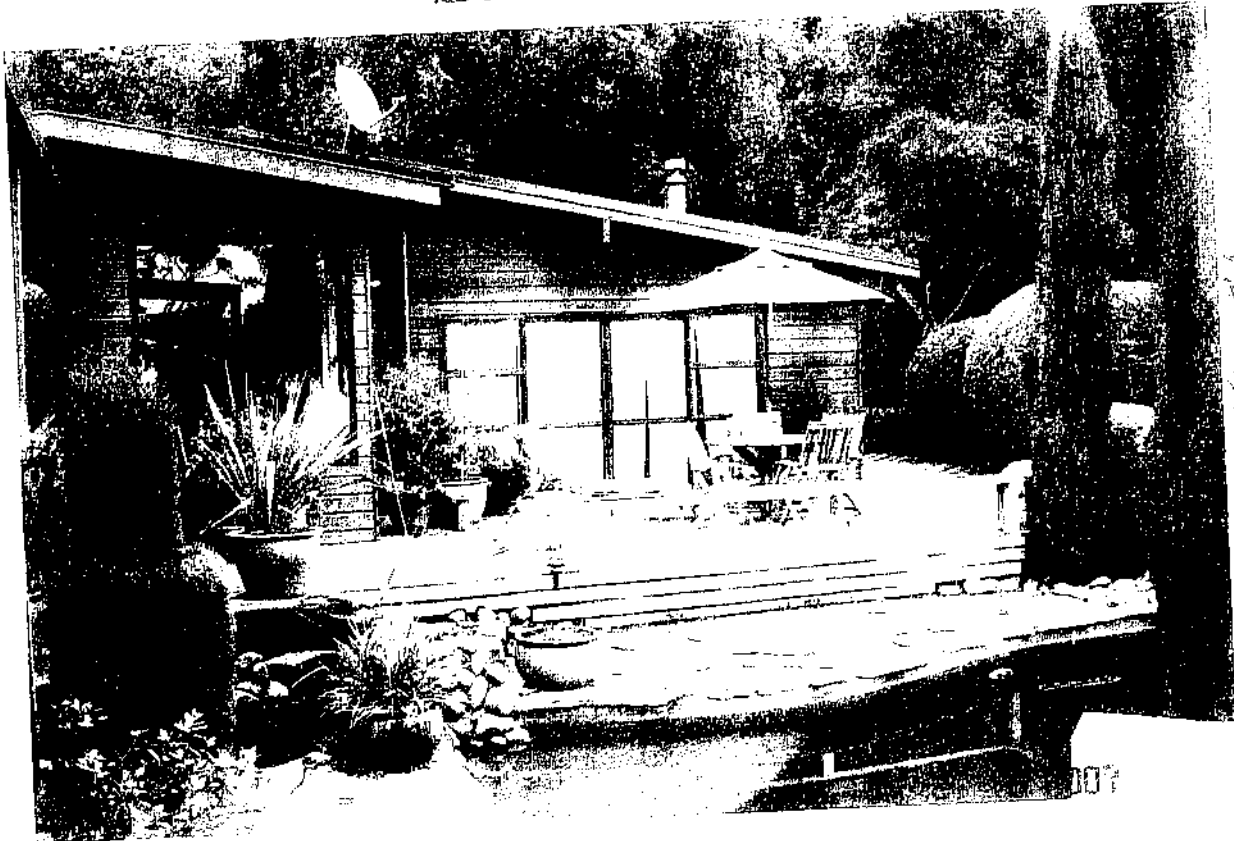
GATE 2



71 000 0000 000

(5)

Lounge Deck & Dining Room Windows



100 0000 000 84

(6)

DAY ROOM & WASHROOM



78 2000000 25

(7)

MASTER BEDROOM + DECK 3 METRES ABOVE GROUND LEVEL



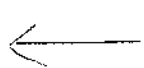
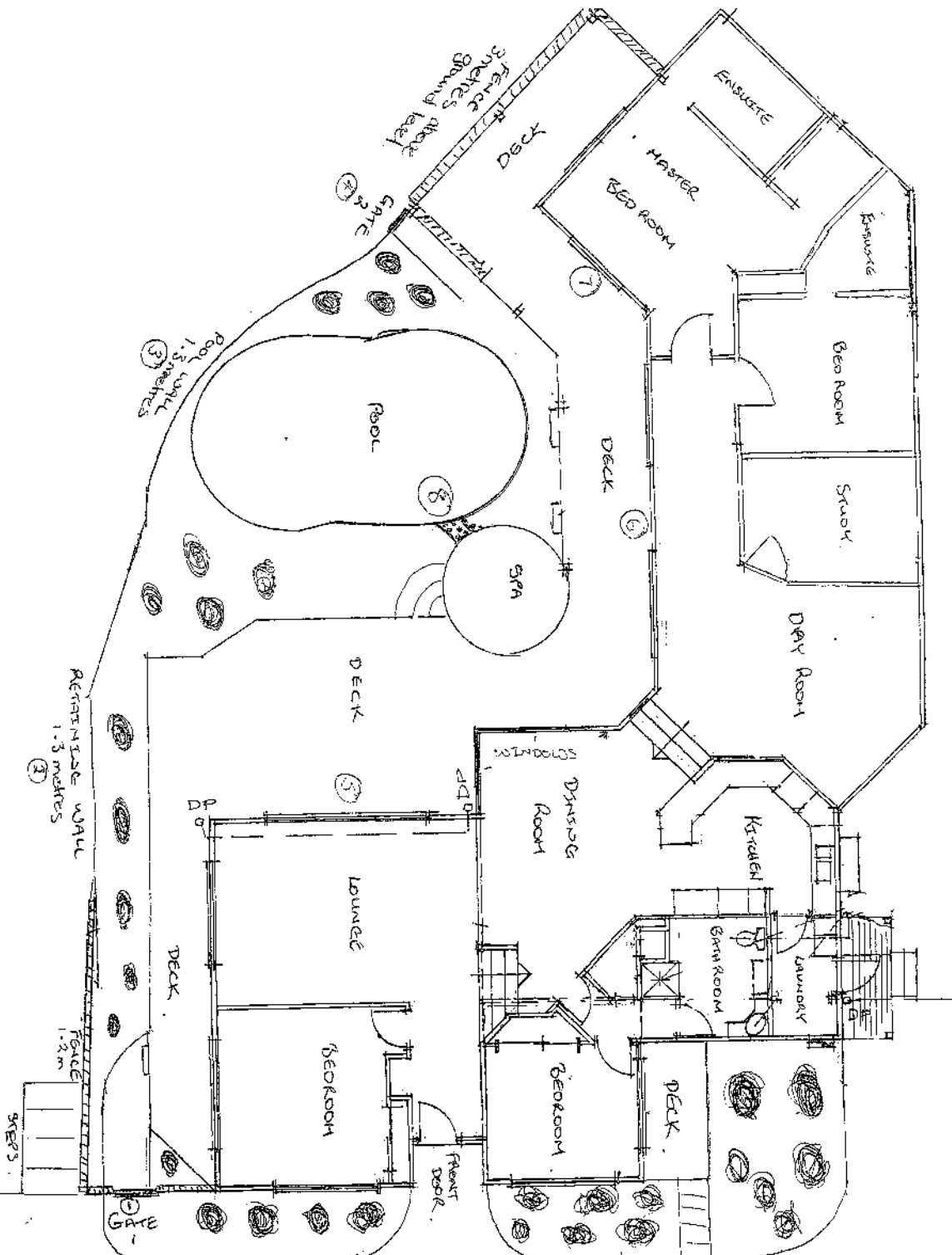
78 2000000 25

(8)

View of OCL from Day Room.



75 - 10/10/10 - 11/10



DRIVEWAY
 APPROX 500 metres of WINDY, STEEP AND DENSE BUSH

A 25



Waitakere City Council
Te Taiāo o Waitakere

EXEMPTION APPLICATION FORM FOR SWIMMING & SPA POOLS

The Operational Compliance Manager
Waitakere City Council
Private Bag 93109
Henderson
WAITAKERE CITY

OFFICE USE ONLY	
SITE ADDRESS:	68 Anzac Valley Rd
SWP NO:	
ABA NO: (IF APPLICABLE)	

OWNERS NAME:
Mr/Mrs/Miss/Ms Paul McCarthy & Sarah Salwood

Hereby make application for an exemption from the standard fencing controls relating to pools. *Debrief no 31337c(4)*

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

The pool area currently has 1.8m high fence with 2 self latching gates (photos enclosed). I also has 2 wooden french doors for access from the house, these open outwards. On consultation with Neville Exler it is the french doors that do not comply.

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

We would like an exemption from changing the french doors as they have double deadbolts at the top of the doors (2100mm high) (photos enclosed). The cannot be inadvertently opened by a child, they are always kept closed and deadbolted, unless someone namely an adult is in the pool area, it would not be possible to swing these doors inwards.

ADDRESS FOR CORRESPONDENCE: 68 Anzac Valley Road, Waitakere

APPLICATION FEE: \$250.00

Signature:
Telephone No: 8107-087 / 0274 744954
Date: 6/8/07

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

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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.