

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

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.

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: O. J. & L. M. APPLETON

Address of pool: 72 TIRIMORIWA ROAD, TE AWAH SOUTH, AUCKLAND

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:

- ① TOILET DOOR AT REAR OF HOUSE HAS SELF-CLOSING MECHANISM AND IS ALSO DEAD-LOCKED.
- ② TWO RANCH SLIDERS ON UPPER DECK ARE ALL DEAD-LOCKED.
- ③ THE UPPER DECK CAN ONLY BE ENTERED THROUGH THE FRONT DOOR; THIS DECK IS 40 FEET ABOVE GROUND!

Reasons why proposal should be granted: (See reverse) THERE IS NO "FREE" ACCESS TO POOL AREA; ALL GATES NOW COMPLY; ALL DOORS ARE SELF-CLOSING AND DEAD-LOCKED.

Address for Correspondence: AS ABOVE

Application fee: \$250 (one off) N/A.

Signature: [Handwritten Signature]

Telephone Number: (021) 990-157

Date: 15-1-2007

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

Office Use Only
Site Address: _____
SWP No: _____
ABA No: _____ (if applicable)

Exemption Application Form for Spa & Swimming Pools

STW
IC



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

DATA ENTRY
BWIN 1994/12113
Debtor 30049901

Owners Name: Penny Steel
Address of pool: 109 Tivolo Ave Te Atatu SH

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:

This application is for the garden landscaping at the rear of the pool. The land is a bank falling from the property behind it is needed to stop erosion and land slips. It is very well established

Reasons why proposal should be granted: (See reverse)

retaining that was made when the property was built to manage the embankment / Please waive the exemption fee as my landscaping passed

Address for Correspondence: as above and pool passed

Application fee: \$250 (one off)

Signature: [Signature] The last inspection

Telephone Number: 8377556 / 0273557429

Date: 6/11/06

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

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

SP
Inspection
14/07/07

Office Use Only

Site Address: _____

SWP No: _____

ABA No: _____
(If applicable)

Exemption Application Form for Spa & Swimming Pools



Send to: Chief Executive
 Waikare 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

25/11/2007/11/06/4

682023

Owners Name: Coutter Family Trust

Address of pool: 40 Graham Ave, Te Aroha Peninsula

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:

Have arranged for self closing and self latching gate. Town and
Arund Gates are assisting with these requirements.
I am applying for an exemption for the double doors. They
open outwards and it would be prohibitive to reverse this, in a
practical sense. Both doors have key ^(extra hole) locks at the top, inside,
and foot traffic can be completely regulated.

Reasons why proposal should be granted: (See reverse)

- (1) The doors have previously complied
- (2) It is impossible to swing the doors in an inward direction
- (3) The doors are dead bolted at the top
- (4) I wish to apply for exemption of ^{over} ~~doors~~ ^{doors}

Address for Correspondence: 40 Graham Ave Te Aroha Peninsula

Application fee: \$250 (one off)

Signature: [Signature]

Telephone Number: 915 9456

Date: 14/11/06

Sub: 380
 Tax: 10/13/07
 Date: 11/13/07

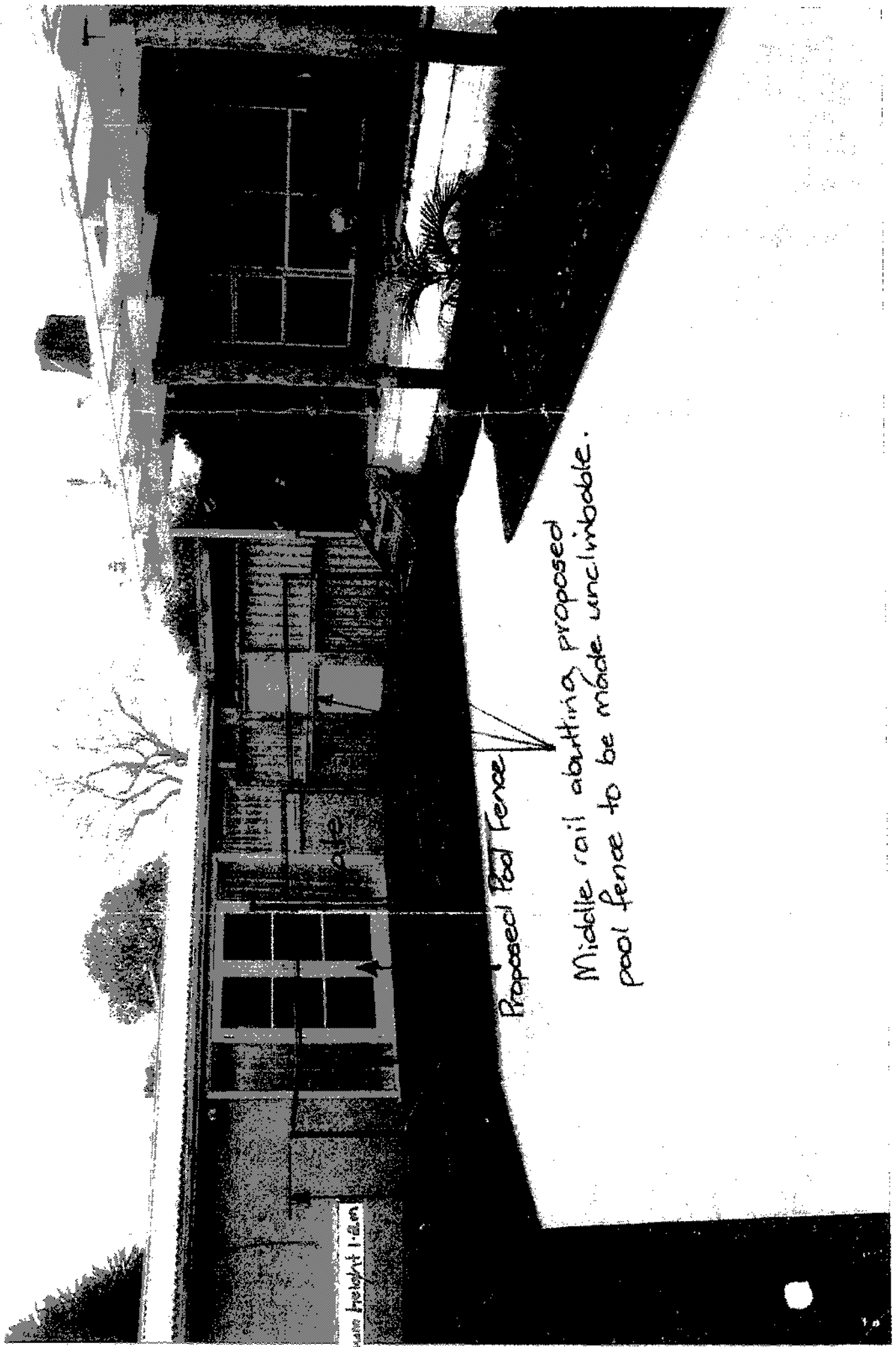
RECEIVED
 14/11/06
 10:00 AM
 ATTACHED

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

Office Use Only
Site Address: _____
SWP No: _____
AEA No: _____ (if applicable)

RECEIVED
 [Signature]

40 GRAHAM AVE



Proposed Pool Fence

Middle rail abutting proposed pool fence to be made unclimbable.

Minimum Height 1.2m

(3)

28 NOV 2006



Waitakere City Council
Te Taiāwhiri Waitākere

Exemption Application Form for Spa & Swimming Pools

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

CHEQUE FOR
\$250-00
CASHIERS

682993

Owners Name: MR & MRS BEN

Address of pool: 30 BRENNAN AVG TG AWAH KAWAIA.

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:

DEBITOR 301571 (6)

Applying for exemption of gates in pool fence

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

Address for Correspondence: 30 BRENNAN AVG TG AWAH KAWAIA

Application fee: \$250 (one off)

Signature: J. Ben

Telephone Number: 8344835 H / 5803363 W - MR BEN

Date: 23 NOVEMBER 2006

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

Office Use Only	
Site Address:	_____
SWP No:	_____
ABA No: (if applicable)	_____

Chief Executive	
Community Services	
City Services	
Mosaic	
Community Services	
ECO - WATER	
Strategic Group	
Consent Services	
Field Services	
Legal	✓

RECEIVED
28 NOV 2006
Legal

The boundary around the back of our property is a six foot fence and wall and within that area is our pool which is separately fenced and permitted according to Council regulations.

The exemptions we are applying for are for three self closing gates which allow entry and exit from our pool area and are needed to enable us to use and enjoy our property - these gates have all been approved in our previous permits and our pool is over 30 years old.

Gate 1

This gate is the only access to the pool from the laundry and is needed for pool maintenance. The area down the side of the house is only accessible through the laundry as there is a six foot fence across from the front of house to the boundary of our property.

Gate 2

This gate is across from the corner of the house to the side of the garage and is the only access way from the front of our property and is needed for the maintenance of our back lawn and to get the lawnmower through. Although this gate is selfclosing and over the regulation height, as it allows access from the front of our property, we take the added precaution of always keeping it padlocked - making the back part of our section private and secure.

Gate 3

This gate allows access from the pool area to the back yard and is the only accessway to the back area.

As access to our pool area can only be obtained through our house or Gate 2 which is self closing, childproof and padlocked, we do not feel that these gates into our pool area in any way make the area dangerous or more liable to be dangerous to young children and would ask that you view our application favourably..

30 BRENNAN AVE

Boundary wall - 6 foot high

Shed

6 Foot wall

Garage

Trellis with netting cover -
all complying with Council regulations

Self Closing Gate
Changing area

Built in BBQ

Paved Area

Self Closing Gate

Side Door

Ranch Sliding
Doors in Rumpus Room

Deck

DWELLING

Laundry

Pergola

POOL

Self Closing Gate

Deck

Downslant fence 6 foot high

CHEQUE FOR
\$ 250.00
TO CASHIERS
ATTACHED

WAITAKERE CITY COUNCIL

17 JAN 2007



Waitakere City Council
Te Taihira o Waitākere

Exemption Application Form for Spa & Swimming Pools

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

685888

Debtor 303770(2)

Owners Name: Carl & Yvonne Woolright

Address of pool: 60 Allington Rd Massey East Auckland

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 are arranging for 200mm to be added to the height of the fence around our house deck. This complied 2 years ago!

It could possibly take a couple of weeks for this to be made up. It has to be measured & made by tradesman

Reasons why proposal should be granted: (See reverse)

Council require that we fence off one side of the pool that is a small grassed area. If a fence is erected there will be no other access & we will be unable to get a mower into the area. There is also a major change of elevation from the pool deck down to the grassed area. The Council has necessary plans/photos from when pool last complied.

Address for Correspondence: 60 Allington Rd Massey East Auckland

Application fee: \$250 (one off)

Signature: J Woolright

Telephone Number: 0274 784 004 or daytime 5800736

Date: 16.1.07

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	
LEGAL	<input checked="" type="checkbox"/>

Office Use Only

Site Address: _____

SWP No: _____

ABA No: _____
(If applicable)

26 OCT 2006

RECEIVED
26 OCT 2006
Legal Services



Waitakere City Council
Te Taiaro o Waitakere

679960

EXEMPTION APPLICATION FORM FOR SPA & SWIMMING POOLS

The Operational Compliance Manager Chief Executive
Waitakere City Council
Private Bag 93109
Henderson
Waitakere City 1231

WAITAKERE CITY

OFFICE USE ONLY

SITE ADDRESS:

SWP NO:

ABA NO:
(IF APPLICABLE)

OWNERS NAME:

Mr/Mrs/Miss/Ms Mr and Mrs Brooker
Adam and Sharlene

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:

There are security latches at the very top and bottom
of the door in question which prevent it from being opened
by a child (see attached document for full details and pictures)

Reasons why proposal should be granted: (See reverse): It has been deemed in past
inspections impractical and therefore unreasonable to change and
has passed these inspections, as per above there are security
latches on the door which make it comply with all
provisions in Clause 11 of the Fencing of Swimming Pools Act
1987. Please see attached document for plan, full details
and pictures

ADDRESS FOR

CORRESPONDENCE: 23 St Margaret Place, West Harbour

APPLICATION FEE: \$250.00 (one off) - please see attachment - we request that this

Signature: [Signature]
be waived due to the fact it has passed previous inspections and that it is impractical to change the door.

Telephone No: 031-132-9307 or 416-0277

Date: 25-10-06

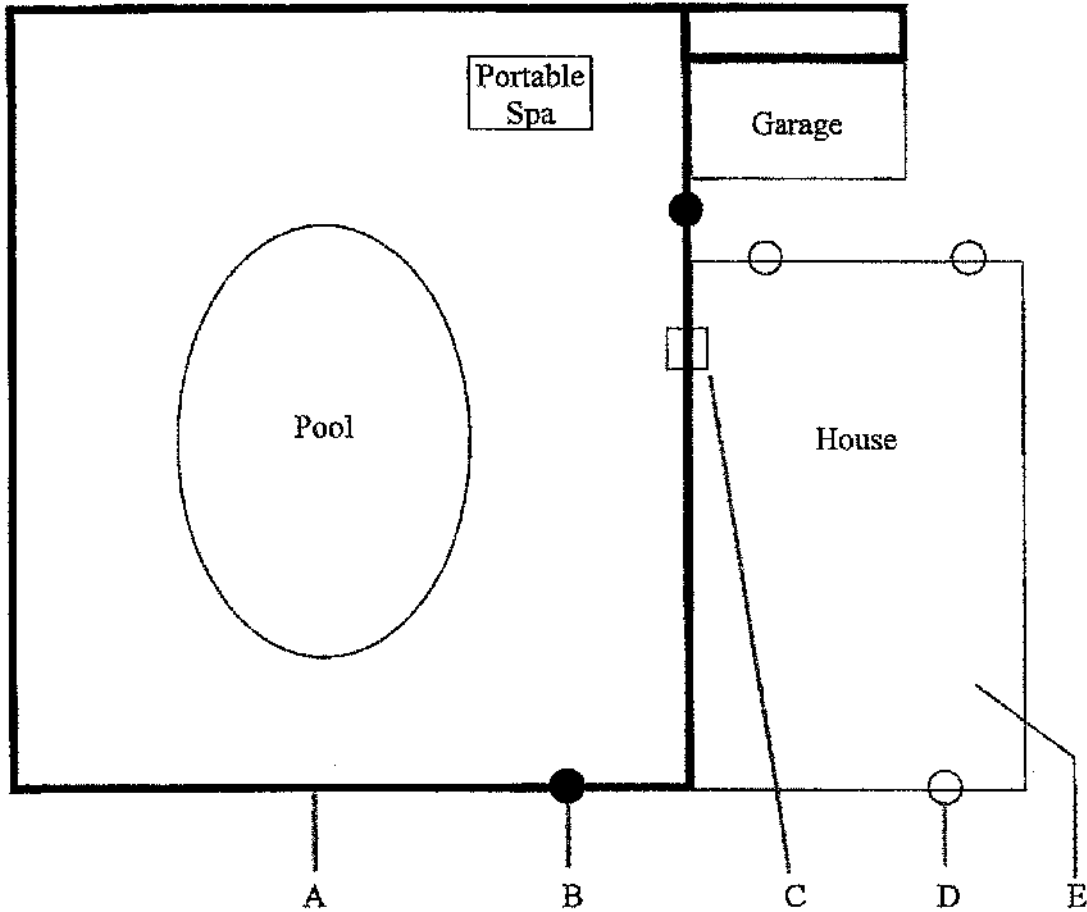
Note the explanation and requirements on the reverse of this form.

ECO - WATER	
Strategic Group	
Consent Services	
Field Services	
Local	✓

POOL AT 23 ST MARGARET PLACE, WEST HARBOUR, AUCKLAND

KEY

- A Fence constructed to the Act's requirements
- B Gate in fence meeting the Act's requirements
- C Ordinary door meeting the Act's requirements
- D Ordinary door not meeting the Act's requirements
- E House

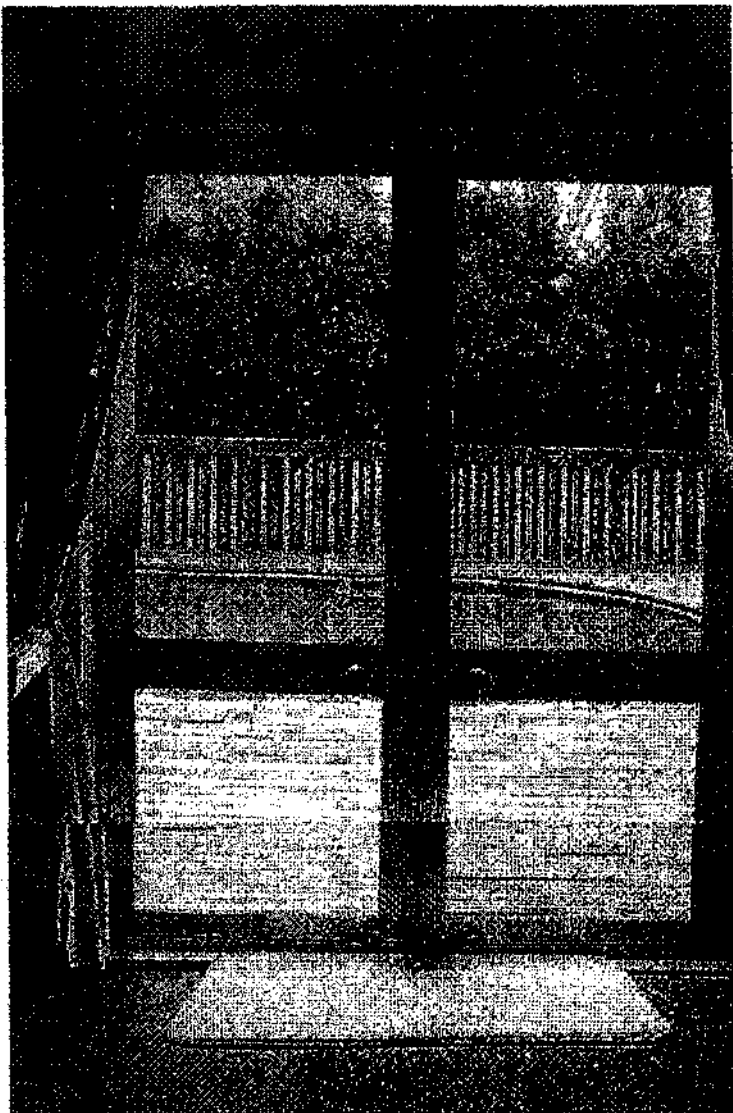


In regard to door C in the above plan of 23 St Margaret Place this door meets the Fencing of Swimming Pools Act 1987 under Clause 11, although it does not comply with Clause 8 and 10 of the Act it is, and has been previously deemed by a Swimming Pool Advisor to be impractical and therefore unreasonable to comply with Clause 8 and 10 (meeting Clause 11 (a)), and it is fitted with locks that when properly operated prevent the door from being readily opened by children under the age of 6 years (meeting Clause 11 (b)). As such it complies with the Fencing of Swimming Pools Act 1987.

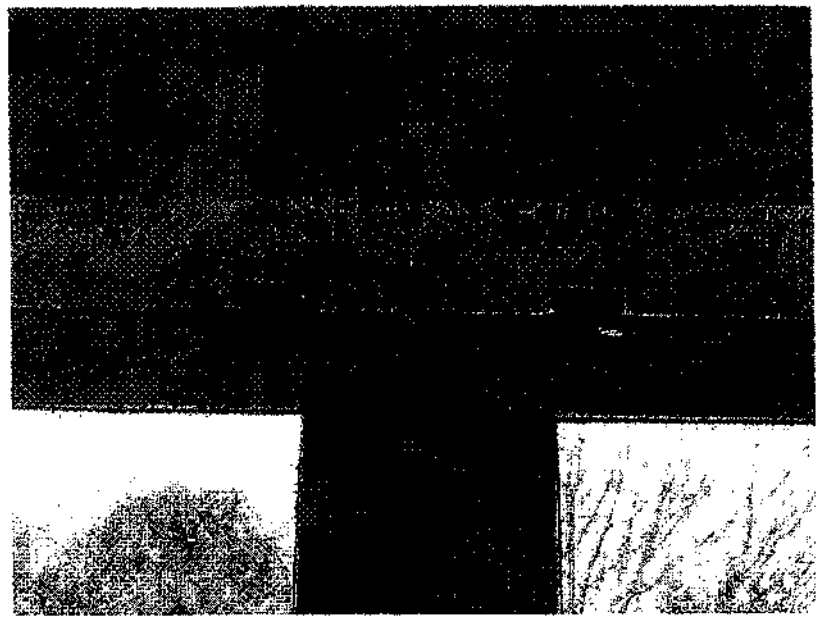
As this door has passed the above provision in past inspections by the Swimming Pool Advisor and has only failed due to WAITAKERE CITY COUNCIL V JOHN MICHAEL HICKMAN AND STEPHANIE HICKMAN and Anor HC AK CTV 2003-404-7266 [1 October 2004] specifying that the exemption must come from a committee of elected people, we would like to request that the \$250.00 exemption application fee be waived for this application.

Please see the next page for pictures of the locks that show that this door complies, note there are two locks at the very top of the door and two at the bottom, it is impossible for a child under 6 to reach these top locks.

Door C in plan



LATCHES AT
TOP OF DOOR



FROM OUTSIDE - THESE DOORS OPEN TOWARDS THE POOL



WINDOW IN ABOVE PICTURE
HAS SAFETY LOCKS ON
BOTH SIDES OF THE WINDOW

