

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.

AI

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

A2

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

A3

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 Building and Housing.

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Waitakere City Council
Te Tatao o Waitakere

28/11/06
Legal
NEW RSTRY
SWM 2007-138
WAITAKERE CITY COUNCIL
28/11/2006

02755

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: <i>7 Burgundy Park Rd Henderson</i>
SWP NO:
ABA NO: <i>Can 2006-705</i> (IF APPLICABLE)

OWNERS NAME:

Mr/Mrs/Miss/Ms *WAYNE LEATHARD*
W F LEATHARD
Phone 3669567

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:

Full Pool is covered by Fencing Company

Reasons why proposal should be granted: (See reverse): *We have improved house at 7 Burgundy Park Rd, Henderson to 15, our house looks splendid a fence which was added to our main fence.
It was never our intention to have a fence in front of this (see back)*

ADDRESS FOR CORRESPONDENCE: *7 Burgundy Park Rd Henderson*

APPLICATION FEE: \$250.00

Signature: *[Signature]*
Telephone No: *0974722626*
Date: *27/11/06*

AS

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.

THE HOUSE ... IN ... PUT
UP TO REST OF FENCING ...
THIS FENCE IS IN OUR PLANS WHICH WE
WOULD LIKE TO CHANGE AND CREATE. MY
PURCHASE HAS BEEN OUR ... TAKEN
PHOTOS OF THE FENCE POOL AND OUR
15/06/05

Raymond

WILLIAM ...

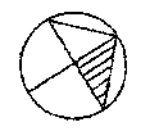
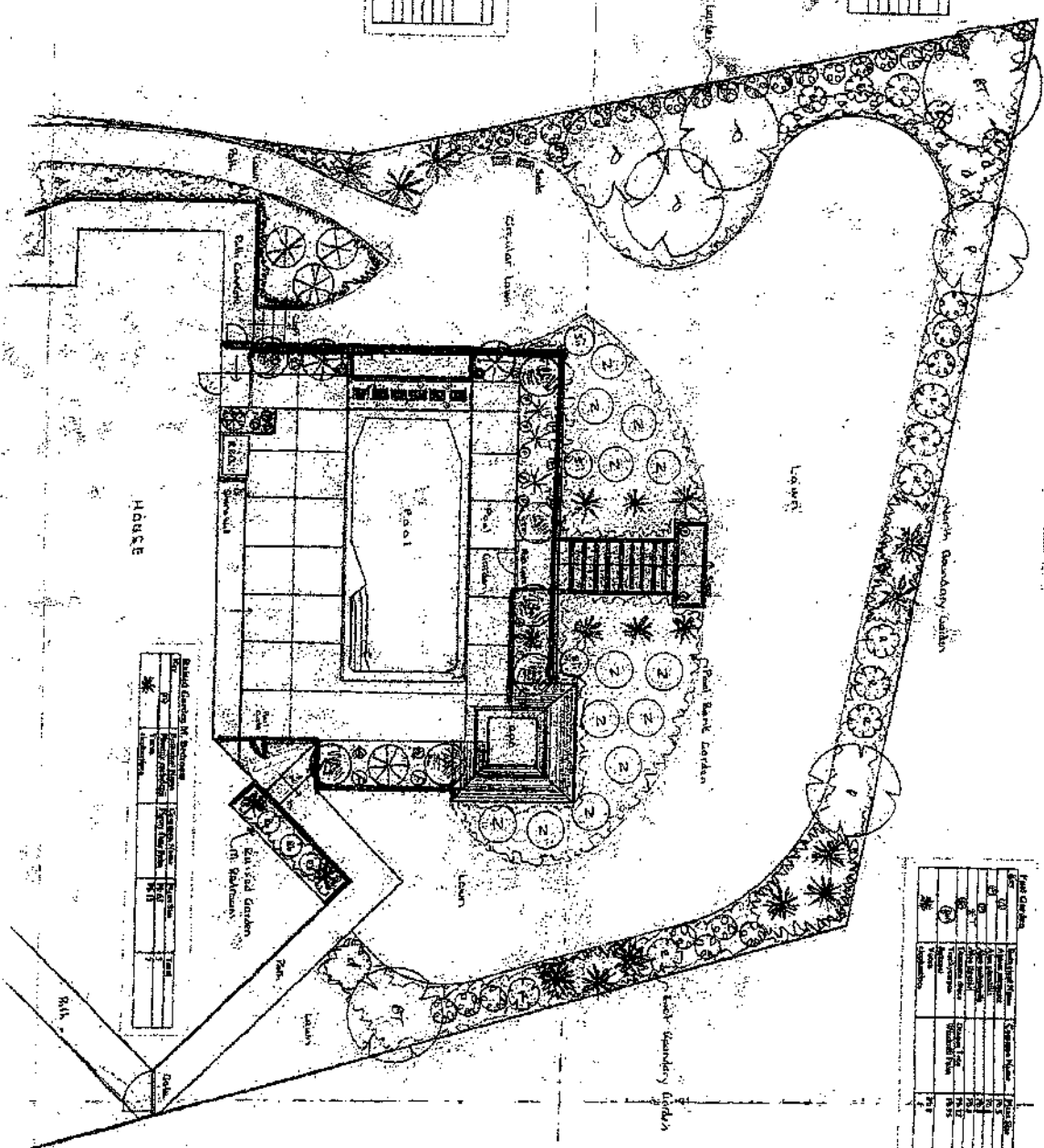
A6

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**Planting Plan
'Rear Garden'**

**W & V Leatard
7 Burgundy Place Ave
Henderson**

DATE: 10/10/10
 DRAWN: W & V
 CHECKED: W & V
 SCALE: 1:200
 PROJECT: 10/10/10

DESIGN LTD
 10/10/10
 10/10/10
 10/10/10
 10/10/10
 10/10/10

17

Exemption Application Form for Spa & Swimming Pools

2007

Waitakere City Council
Te Tainio o Waitakere

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

4 JAN 2008

Owners Name: STEPHEN & DIANNE HOEATA

Address of pool: 32 LONGBURN RD, HENDERSON

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:

SET OF FRENCH DOORS OPERATE INDEPENDENTLY OF EACH OTHER & HAVE A LOCKING LATCH & CLOSE.

DOOR NO. 37067 (2)

Reasons why proposal should be granted: (See reverse)

EXISTING CERTAIN

CIRCUMSTANCES & PRIOR OWNERSHIP HAS HAD BEACHING REASONS FOR PROPOSAL, THAT IT HAS BEEN IN ITS CURRENT CONDITION FOR THE AGE OF THE POOL 28 YEARS APPROX.

Address for Correspondence: 32 LONGBURN RD, HENDERSON

Application fee: \$250 (one off)

Signature: [Signature]

Telephone Number: 09 8360701

Date: 4th JAN 2008

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

Office Use Only

Site Address: 32 LONGBURN RD, HENDERSON

SWP No: 2002-9918

ABA No:

(if applicable)

Rec # 1489330

A8

4/1/08

Dispensation Application

Introduction

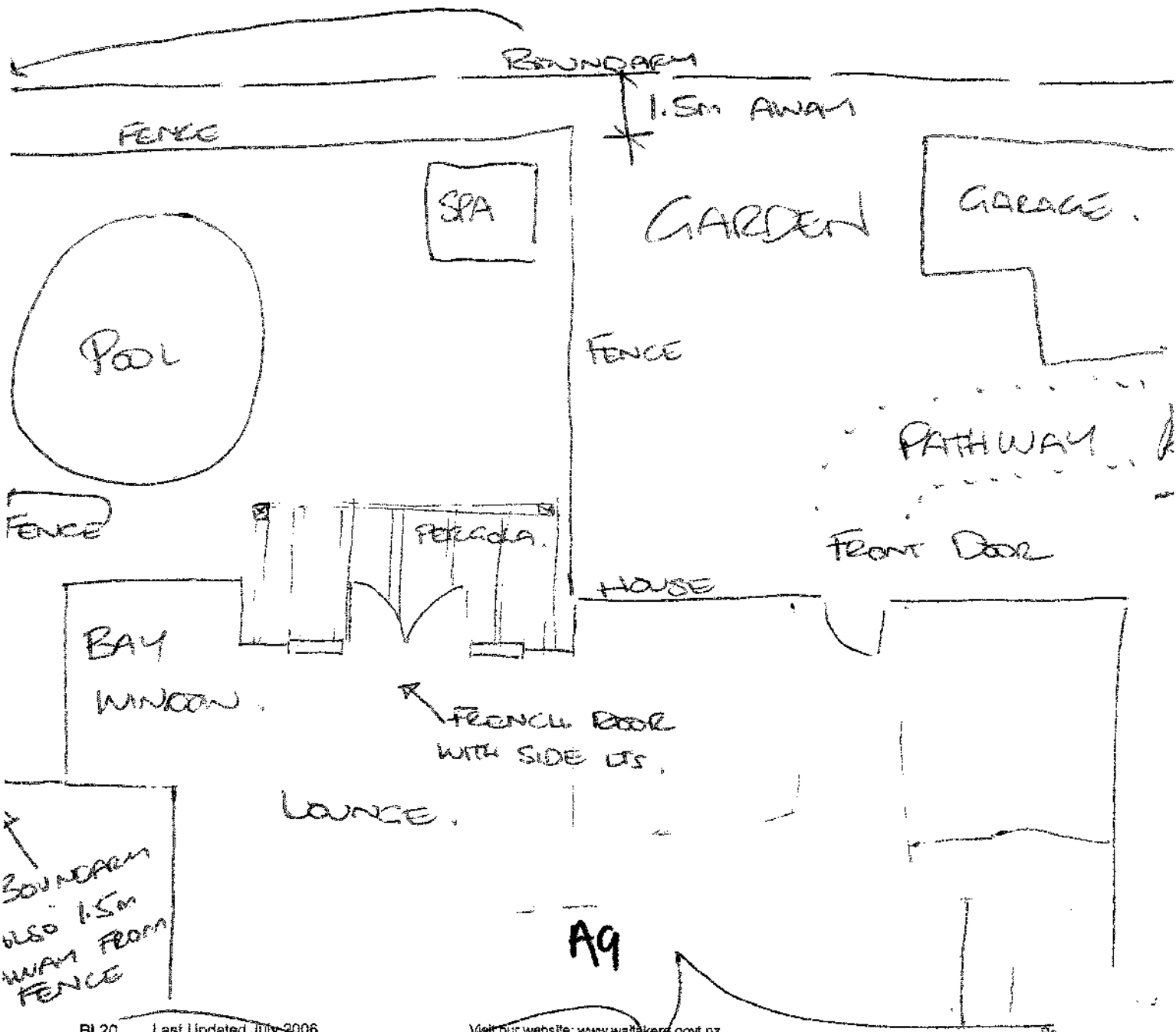
An exemption is a discretionary power conferred on Council by Section 6 of the Fencing of Swimming Pools Act 1987, to allow in certain circumstances exemptions from the requirements of the Schedule of the said Act.

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.

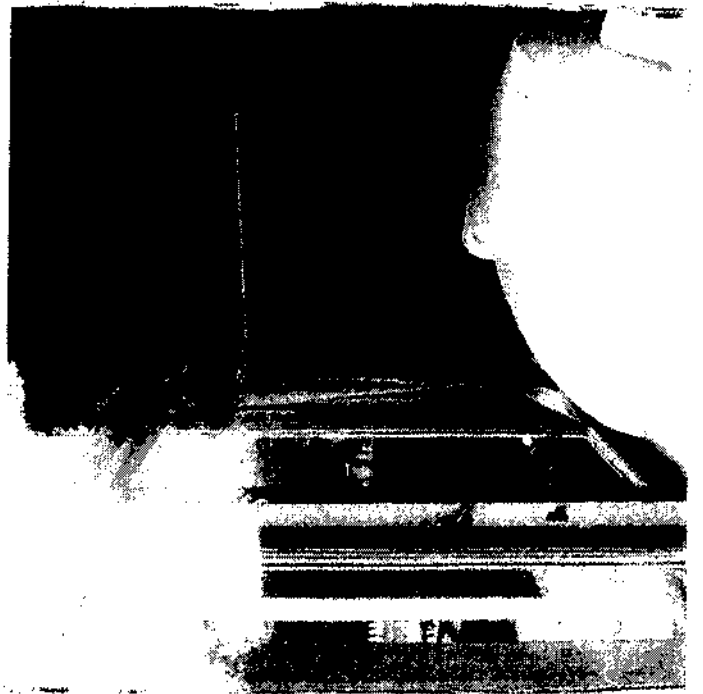
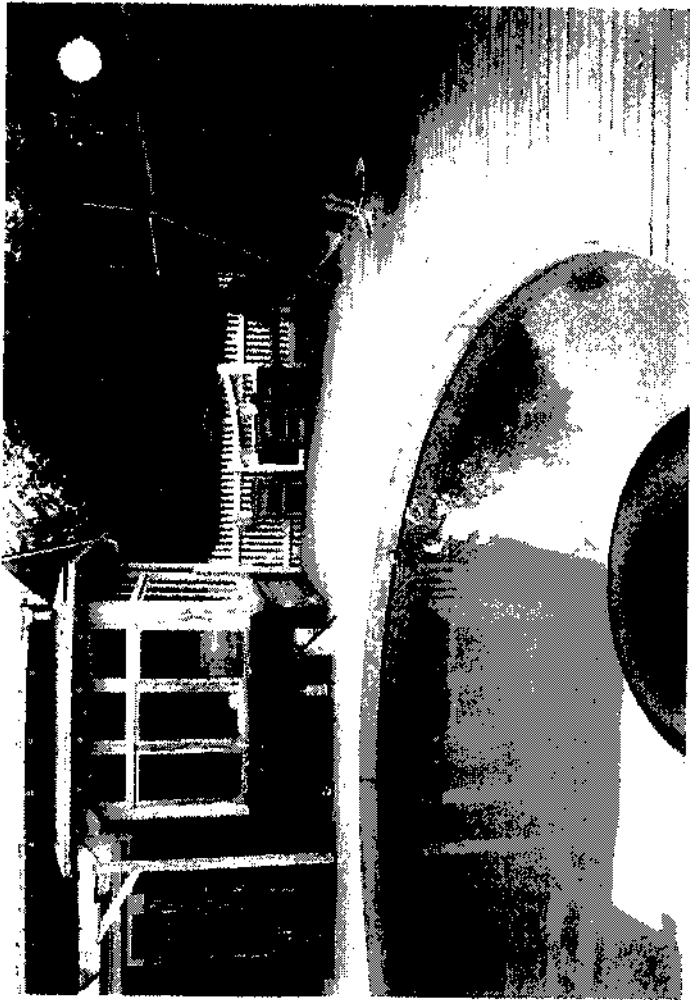


BL20 Last Updated July 2006

Visit our website: www.waitakere.govt.nz

P3

FENCE 1.8m HIGH CONSTRUCTED OF 150x20 H3 FENCE PAILS (WOOD) - 100x100 H5 POSTS IN 600 DEEP CONCRETE - 100x50 H3 PINE RAILS



A10

32 LOWE BUEN RD
HENDERSON

Exemption Application Form for Spa & Swimming Pools



Waitakere City Council
Te Taiāwhiri o Waitākere

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

CF 1994-19086 (Swimming Pool)
SWP 2007-124 (SPA Pool)
CPO 5-00

Owners Name: MR S J CARBY

Address of pool: 41 FITZGERALD PLACE

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 have fences exceeding 1.2 metres all around the Spa and swimming pool, with self-closing gates, self-latching opening outwards. My property always passed council rules before. The property is on slope so I have rockery with dense flower gardens behind the pool + spa.

Reasons why proposal should be granted: (See reverse)

The small lawn gives access to shed with pool chemicals and is used to dry off after getting out of pool. I have enclosed photos to show the effect of the steep slope on our small garden, any fence would completely cut off view of garden.

Address for Correspondence:

Application fee: \$250 (one off)

Signature: *[Handwritten Signature]*

Telephone Number: 09 837 4929

Date: 3/12/7

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

ENTERED
3/12/07
MRS
MRS

3250-00

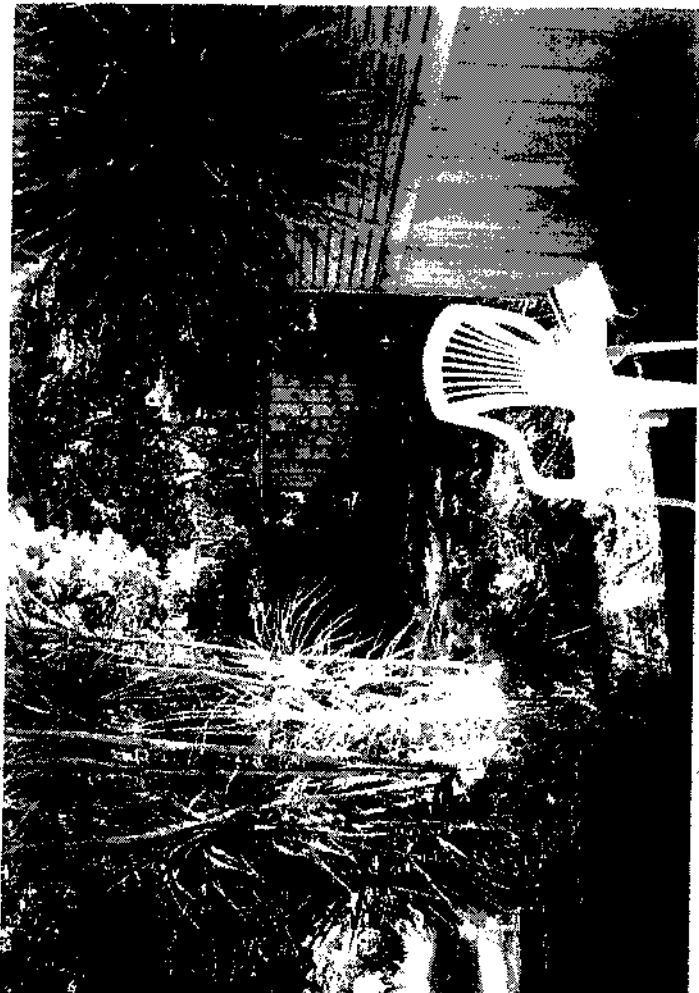
Office Use Only	
Site Address:	41 FITZGERALD PLACE
SWP No:	1994-19086 (SWIMMING POOL) 2007-124 (SPA POOL)
ABA No:	(If applicable)

check nr: 100383 OF 3250-00
DATE: 03/12/2007

All



A12



A13

Exemption Application Form for Spa & Swimming Pools

WAITAKERE CITY COUNCIL

- 8 NOV 2007

Waitakere City Council
Te Taiāro o Waitakere

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

8 NOV 2007
Legal

- 5 NOV 2007

01056

Owners Name: B.R. + E Collings

Address of pool: 23 Woodvale Rd Glen Eden 0600

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) My pool is double fenced already. My whole section is fenced with minimum height of 1.6mtrs. The pool is fenced in the immediate area with buildings on 1 1/2 sides + the remainder is fenced at over 2 mtrs with 2 self locking gates. Originally, only 1 self locking gate but after Council's last inspection

Address for Correspondence: As above (Cont on back)

Application fee: \$250 (one off)

Signature: B.R. Collings

Telephone Number: 818 4610

Date: 5 Nov 07

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

Office Use Only
Site Address: <u>23 WOODVALE RD, GLEN EDEN</u>
SWP No: <u>1991-10303 - DEBID NO. 315192(6)</u>
ABA No: _____ (If applicable)

A14

I had to remove the "Tower bolt" + padlock, + put on a spring + self lock. I have a door into the garage where I keep the Pool chemicals for safety, but is locked.

Also I have a set of "French Doors" which open outwards into the minimal area that is left + it would cause extreme inconvenience by putting another fence here.

This pool has been in place for 35 yrs and have never ever had a problem with small children entering the area in all that time

- Fence of timber frame + clearlite cover 2.1 sheets upright.

- 1 gate. Metal frame + clearlite

- 2 gate. Timber.

Dispensation Application

Introduction

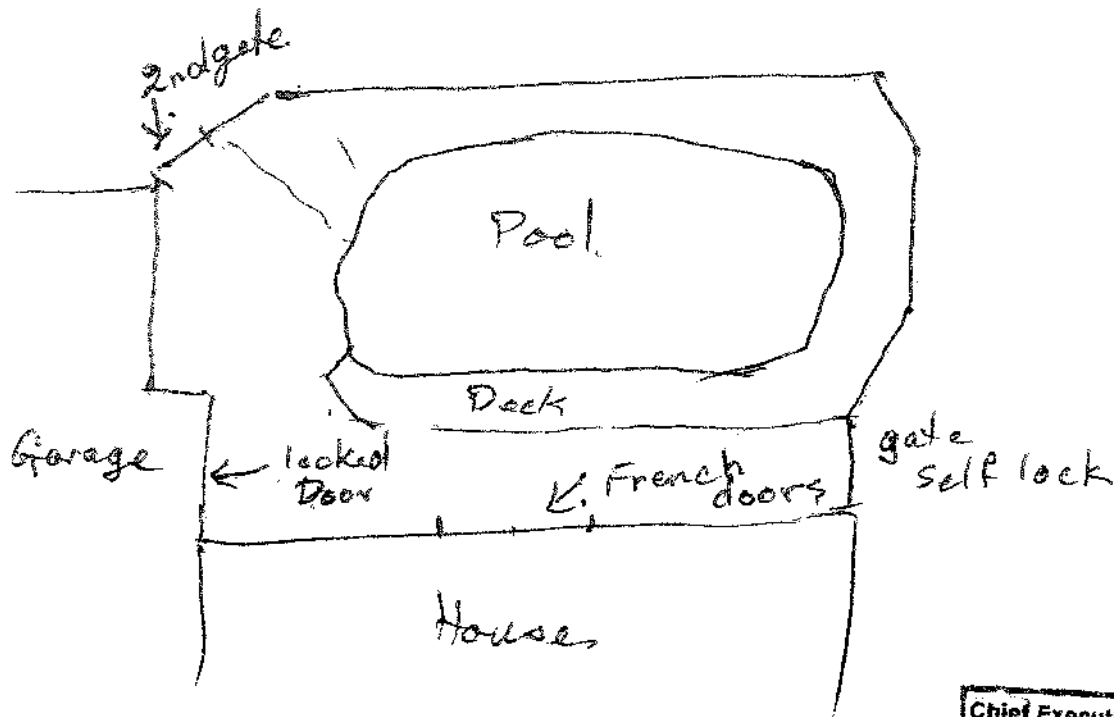
An exemption is a discretionary power conferred on Council by Section 6 of the Fencing of Swimming Pools Act 1987, to allow in certain circumstances exemptions from the requirements of the Schedule of the said Act.

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.



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

A16

Exemption Application Form for Spa & Swimming Pools



Waitakere City Council
Te Taitā o Waitākere

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: DA ELLIOTT and BA HANSON

Address of pool: 2/17B WOODVALE ROAD, GLEN EDEN, WAITAKERE

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:

Since 1994 the pool has been fully fenced and a Fencing Consent was issued in 1994. There have been several inspections since then and Consents have been issued each time. A further fence has been demanded after a recent visit by a Council Inspector.

Reasons why proposal should be granted: (See reverse) Another fence is not required as there is already compliant fencing and gates in place. The perimeter of the property is also fully fenced. To reach the interior of the house from the yard, two gates must be opened. THERE IS NO DANGER TO YOUNG CHILDREN.

Address for Correspondence: PO Box 68322, NEWTON, AUCKLAND

Application fee: \$250 (one off)

Signature: DA Elliott

Telephone Number: 09 373 9132 (OFFICE) 818 6926 (HOME)

Date: 04/12/07

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

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

A17

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.

A18

The above photo shows the current gate at the main entrance. The property also has a full perimeter fence.

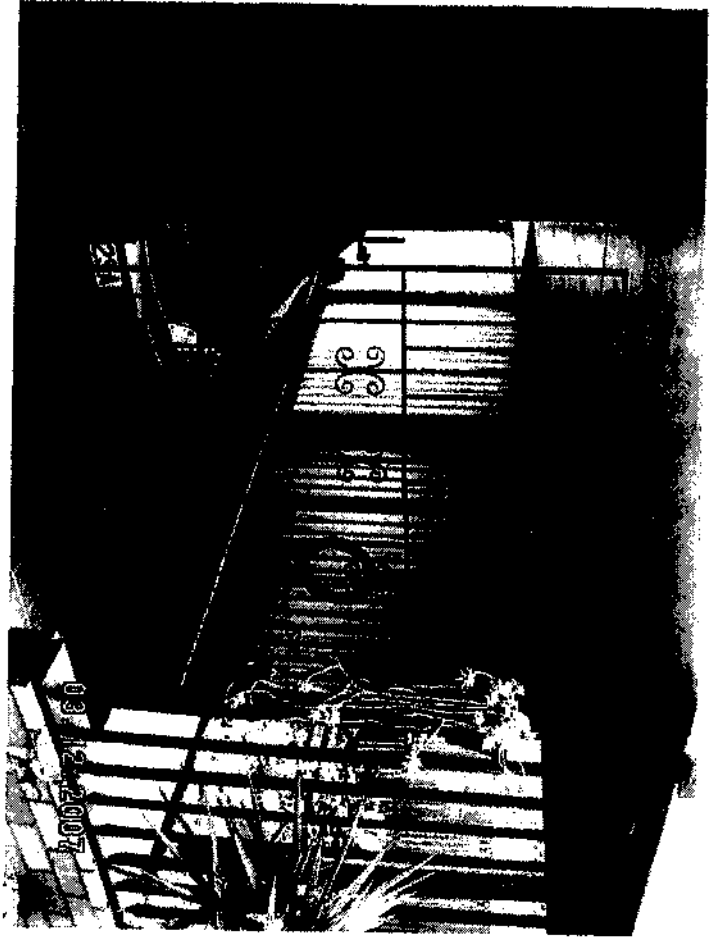
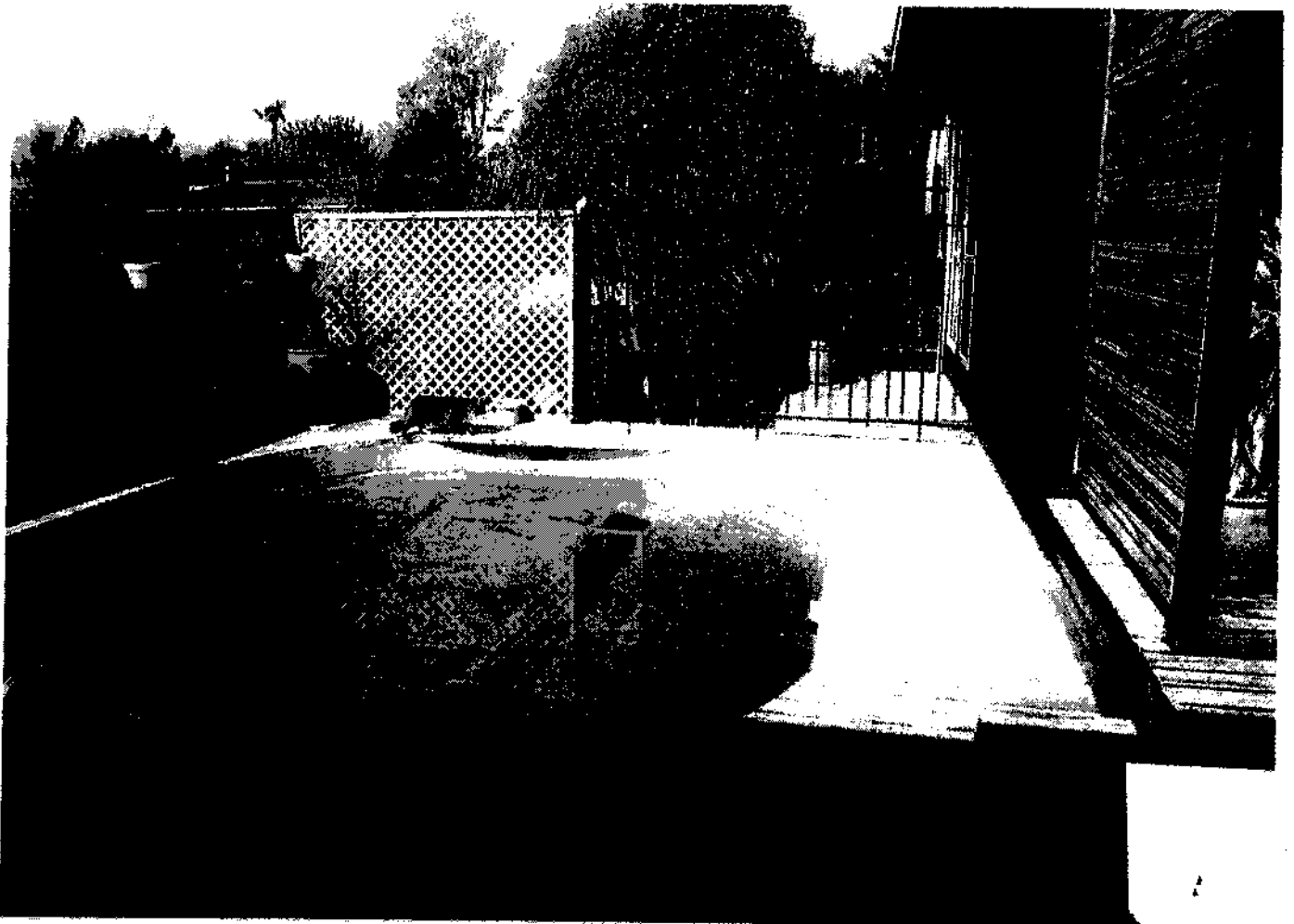


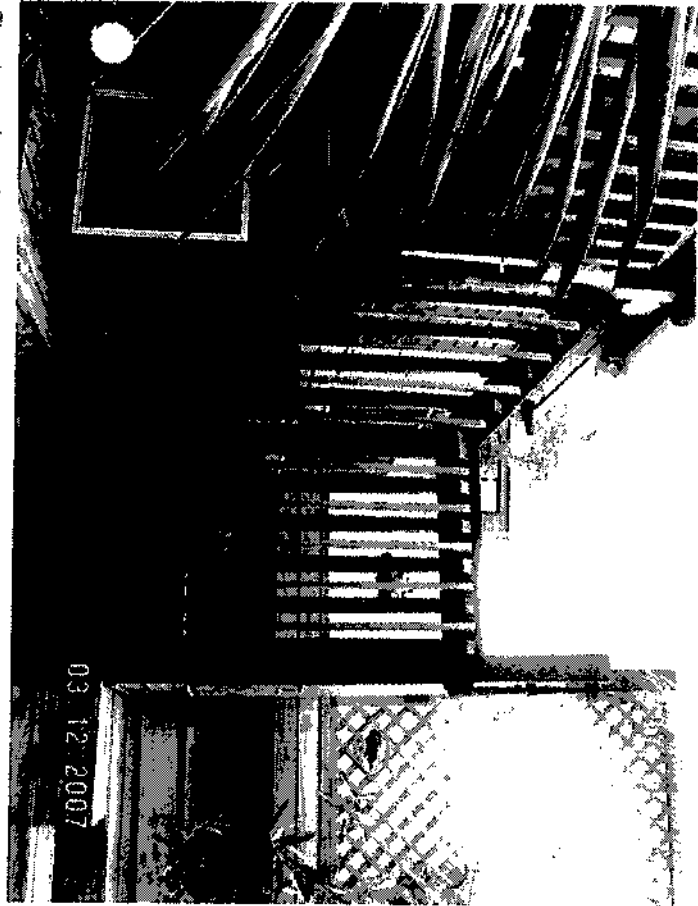
EXHIBIT 'A'



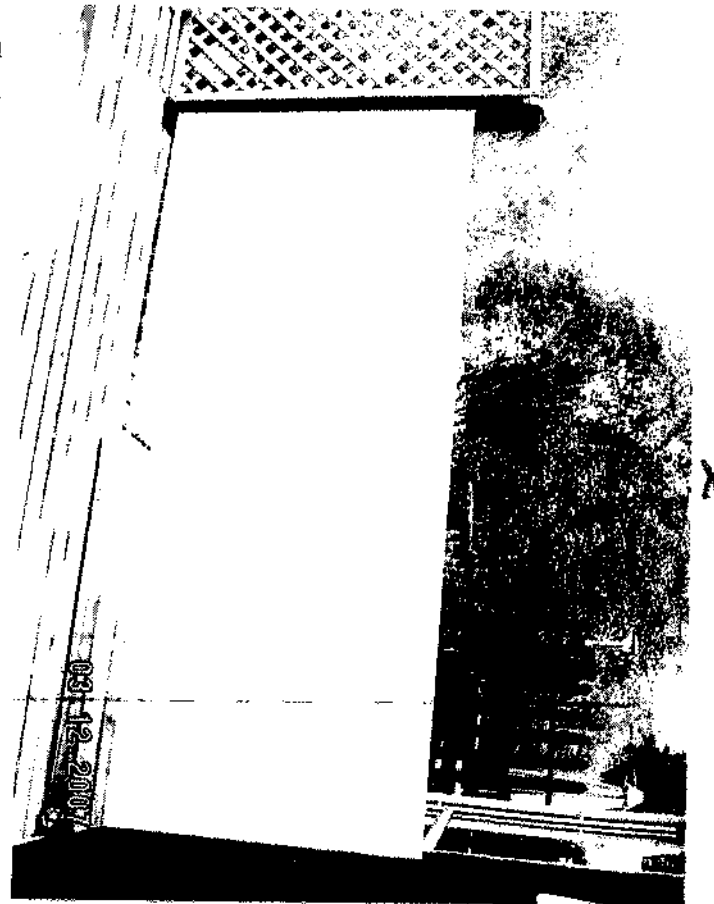
A-1a



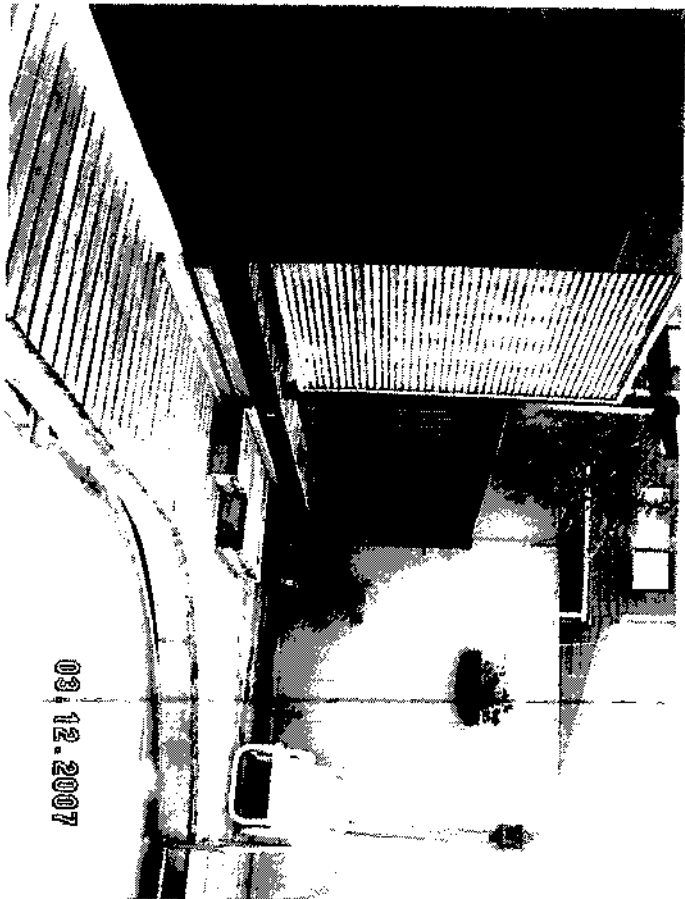
The above photo shows the current situation. Two gates, one from the yard and one to the interior of the house. All railings and gates are compliant.



The above photo shows the area and the approach from the yard to the pool from below.



The above photo shows the fence that is required. This is the fence the exemption application applies to.



The above photo shows the gate and fence at the other end of the pool.

- 6 JUN 2007



Waitakere City Council
Te Taiaro o Waitakere

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

700864

Owners Name: A D Saxler

Legal

Address of pool: 1 Maybourn Rd Te Atatu 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:

I have now completed the work required - the gap below the fence has been rectified. The swimming pool fence is of wood always has been 1.2m. The pool gate is the standard pool gate which does self close and now has been maintained.

Reasons why proposal should be granted: (See reverse)

I feel there is no need to move the existing fence as the pool complies with the swimming pool act. To date there has been no alterations to the pool or building area. There is also another pool gate at the side of the house permitted. The house

Address for Correspondence: 1 Maybourn Rd, Te Atatu Peninsula

PTU →

Application fee: \$250 (one off)

Signature: _____

Telephone Number: (09) 8346 314

Date: 21/5/07

FILED
CIVIC CENTRE
HENDERSON
JUN 11 2007
LEGAL

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

Office Use Only	
Site Address:	_____
SWP No:	_____
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.

fences are six foot corrugated iron, high (unclimbable) which is additional security and safety for the pool area. I feel that as a responsible pool owner/career I have taken all steps to ensure safety I have complied with my permit and hope you consider this exemption

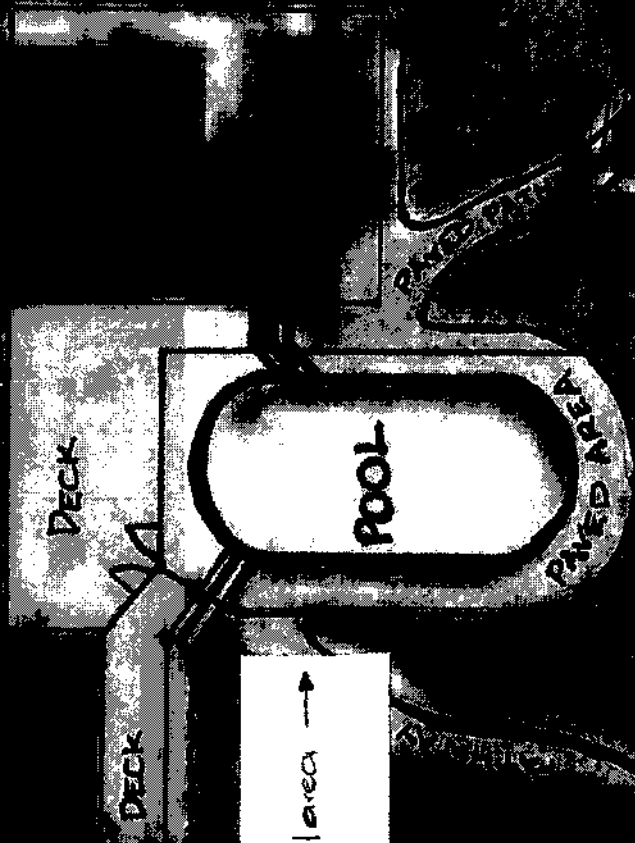
AZZ

1 MABBURN RD

Front SWP gate + fence →

Existing pool & bin storage area →

Existing pool area →



- Existing Pool Fence - marked red.
- Proposed Pool Fence - marked blue.