

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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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.

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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

277 TITIRANGI RD
277 TITIRANGI RD

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

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

Office Use Only

Site Address: 277 TITIRANGI RD, TITIRANGI

SWP No: 3024 1996-1997

ABA No: _____
(if applicable)

AS

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.

A6



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

277 TETERANEI RD
TETERANEI

A7

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



Services shown on public amenity 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 (09) 839 0400

WAITAKERE CITY COUNCIL
20 DEC 2007



Waitakere City Council
Te Taiaro o Waitakere

2/08
Page 1 of 3
27/11/07

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: 5 WOODFERN CRESCENT TITIRANGI
SWP NO: SWIM/2007/57
ABA NO: (IF APPLICABLE)

OWNERS NAME:

Mr/Mrs/Miss/Ms ^{or MRS} PRITESH & NISHA PATEL

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:

(REFER TO ATTACHED PAGE) INDEX A - J FOR IMPROVEMENT
WE HAVE DONE TO ENSURE SAFETY & SECURITY OF THE POOL

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

(REFER TO ATTACHED PAGE) - WE HAVE MADE IMPROVEMENTS
[INDEX A - J]. WE HAVE CONSULTED YOUR NEVILLE
LEIGH - CUSTOMER FIELD OFFICE TO ENSURE IMPROVEMENT
MADE IS ADEQUATE & SATISFACTORY.

ADDRESS FOR CORRESPONDENCE: 5 WOODFERN CRESCENT
TITIRANGI - AUCKLAND

APPLICATION FEE: \$250.00

Signature: [Signature]
Telephone No: (021) 775080
Date: 18/12/07

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ENTERED

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.

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IMPROVEMENTS DONE TO APPLY FOR EXEMPTION UNDER SECTION 6 – FENCING OF SWIMMING POOLS ACT.

Index

A	<p>A new compliant gate (Left Side) installed with spring back latche on the top (inside) and a spring back door mechanism. Height 1.8 meters. Self-close and self-latch.</p> <p>That all the gates and boundary fence giving access to the Swimming pool meet the standards set out in the Swimming Pool Act 1987.</p> <p>The boundary fence is 2-mt height covering all sides of the house with additional .5-mt trellis on top of the boundary fence to added protection.</p>
B	<p>A new compliant gate installed (Right Side) with spring back latche on the top (inside) and a spring back door mechanism. Height 1.8 meters. Self-close and self-latch.</p>
C	<p>A complete block wall (Left Side) (wooden) over the garden to completely block access.</p>
D	<p>All windows(Lounge) with a still height of less than 1200mm leading into the pool area have locks and stays installed and cannot be opened more than 100mm.</p>
E	<p>All windows(Dinning) with a still height of less than 1200mm leading into the pool area have locks and stays installed. these limiters and cannot be opened 100mm.</p>
F	<p>Ranch slider(Family Room) has top bolt installed.</p>
G	<p>All windows(Bedroom # 1) with a still height of less than 1200mm leading into the pool area have locks and stays installed and cannot be opened more than 100mm.</p>
H	<p>Ranch Slider (Bedroom # 2) has top bolt installed.</p>
I	<p>Removal of steps (as advised by Neville Exler – W.C.C Field Advisor)</p>
J	<p>The clothesline and trampoline removed from the pool area.</p>

Additional Points:

- 1 That no children under 6 reside at the property (Children 12 yrs and 16 yrs)
- 2 The pool is covered with a heavy duty cover at all times when not being used.
- 3 The cover is such that it does not have ponds of water on it.
- 4 The cover is tied from all sides and can withstand the weight of at least 60kg and is very rigid.
- 5 Order has been placed for an ASTM approved pool alarm system to be installed in the pool and will be subject to annual checks and / or service by authorised agent to ensure it continues to operate correctly.
- 6 We will ensure all the conditions of the exemption is adhered to and subject to regular checks by council for which fees may be charged

Pritesh & Nisha Patel
Pritesh & Nisha Patel
 5 Woodfern Crescent - Titirangi

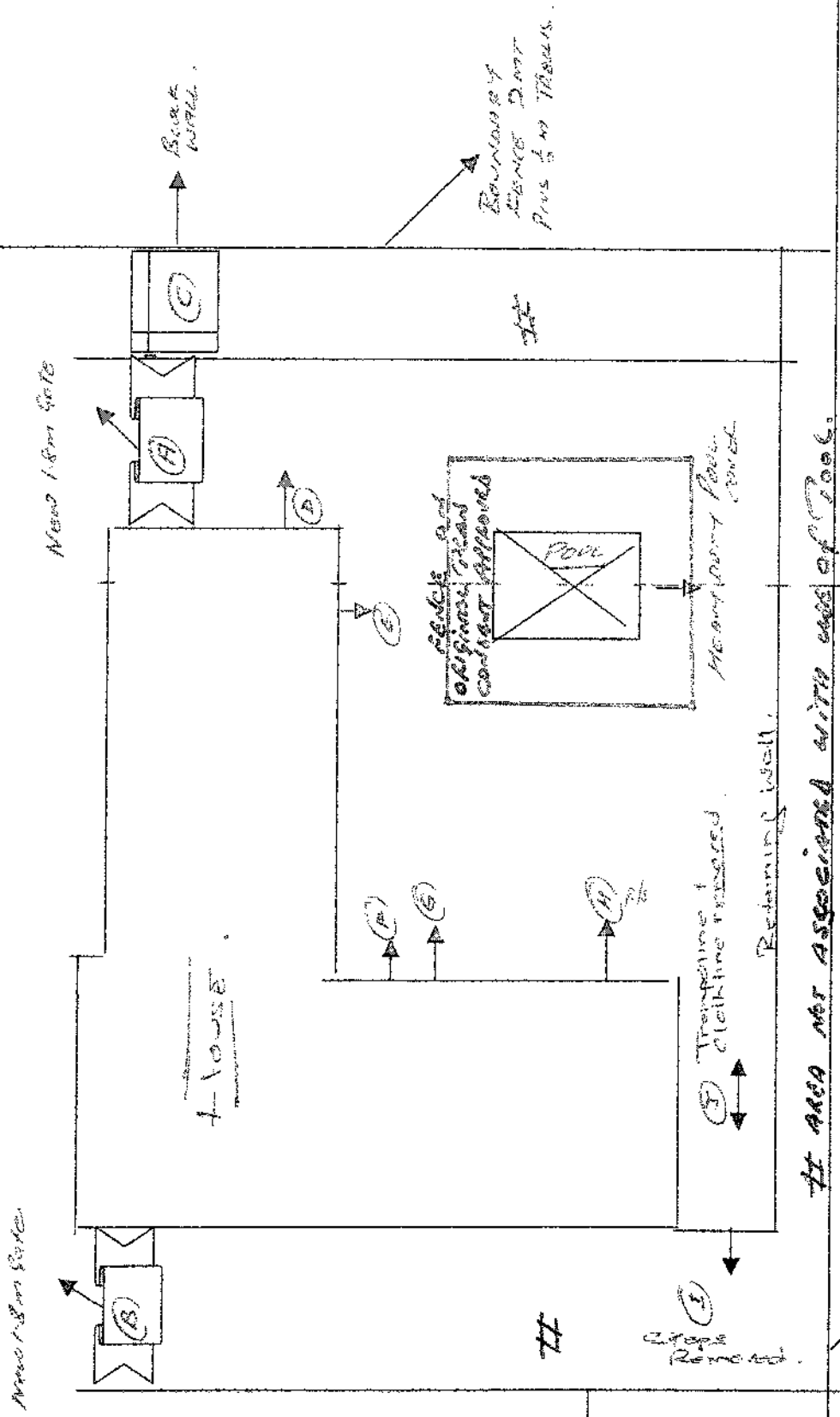
18/11/07

A10

5 WOODFERN CRESCENT

(PROPERTY IS FULLY FENCED FROM ALL SIDES)

(index = A - J = Improvements made to obtain exemption under section 6 - Fencing of Swimming Pools Act)



Boundary of Fence 2m Plus 1/2 m Threshold.

11 00

A12

Boundary Fence 2m Height

This area not associated with use of Pool.

Boundary Fence 2m Height

VALUE FOR
\$ 250.00
TO CASHIERS
AMOUNT

18 DEC 2007

Exemption Application Form for Spa & Swimming Pools



Send to: Chief Executive
Waitakere City Council
Private Bag 93109
Henderson
WAITAKERE CITY 0812

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

04370

Owners Name: AS A LS BAILEY

Address of pool: 8 MIHA ROAD, FREMONT BAY, 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:

BLOCKED IN RISERS IN STEPS. ACCORDING TO CURRENT LETTER OF 2002 (ATTACHED) REGARDING ALL OTHER COMPLIANCE

Reasons why proposal should be granted: (See reverse) REFER TO ATTACHED LETTER AND COPY OF WAITAKERE COUNCIL LETTER

Address for Correspondence: 8 MIHA ROAD, AUCKLAND

Application fee: \$250 (one off)

Signature: [Handwritten Signature]

Telephone Number: 817 6454

Date: 13/12/2007

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

MAJOR DEBARKER 216 751115

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

Office Use Only

Site Address: _____

SWP No: _____

ABA No: _____
(if applicable)

AB

A.S & L.S..Bailey,
8, Miha Road,
French Bay,
Titirangi,
Auckland,
Ph.8176454
13 Dec 2007

I am applying for an exemption on the Fencing controls around my Swimming Pool. I had an inspection done on my Pool Fencing in 2002 and after much expense I raised the fences to what I was told were the requirement and also removed a Spa Pool into my Swimming Pool area with further associated costs.

On completion of this work and a further inspection I received an Official letter from Waitakere City Council advising that everything was in compliance (copy of letter attached)

In April 2007 I received a visit from Mr.Exler of the Waitakere City Council and he advised that further adjustments were required on my Fencing and steps leading down to the Pool area..

I disputed this on the basis I had a letter advising all was in compliance and advised him of the considerable costs incurred. Nothing has changed in my garden layout from the inspection in 2002. I have rectified the discrepancy on the steps pointed out by Mr.Exler ~~which I accepted could have been a possible problem.~~

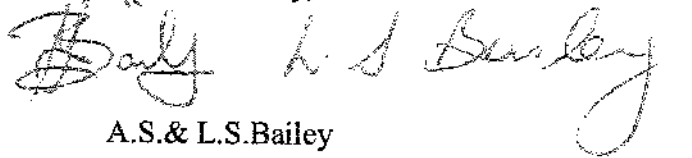
The Swimming Pool Act was I believe dated 1987 so nothing has changed in the way of requirements from my inspection in 2002 to my inspection in 2007.

I have also had a series of stone walling built in the Pool area which further justifies an exemption.

No children reside on the Property and I doubt if 6 year old could ever get into the Pool area.

This option to apply for an Exemption was given by Mr.Exler of Waitakere City Council. I am enclosing a cheque for \$250 together with the Exemption form however I feel that this should be refunded as I have already been advised (as mentioned earlier) in writing that the Fencing complies.

Yours Sincerely,



A.S.& L.S.Bailey

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