

## 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.

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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

WAITAKERE CITY COUNCIL



Waitakere City Council  
Te Taiāro o Waitakere

22 FEB 2008

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: KARL AND RACHEL BUREISS

Address of pool: 14 KUNINI ROAD, TITIRANGI, 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:

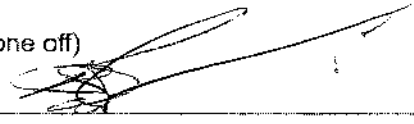
FENCE COMPLIANT  
DEAD LOCKS TOP AND BOTTOM OF FRENCH DOORS,  
NO CHILDREN ON PREMISES,  
LOCKABLE POOL GATE.  
7FT FENCING - AROUND POOL AREA.

Reasons why proposal should be granted: (See reverse)

PROPERTY INSPECTED  
PHOTO'S TAKEN BY COUNCIL.  
HAVE FITTED DEAD LOCKS TOP AND BOTTOM,  
FRENCH DOOR'S THAT WERE IN QUESTION.

Address for Correspondence: 14 KUNINI ROAD, TITIRANGI, AUCKLAND

Application fee: \$250 (one off)

Signature: 

Telephone Number: 09-813-3065.

Date: 22-02-2008.

*Handwritten notes:*  
✓ photo  
✓ taken  
✓ taken  
✓ taken  
✓ taken  
✓ taken  
✓ taken

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

Office Use Only	<i>DETAILED 31/3/08 - 23/04/08</i>
Site Address:	<u>14 KUNINI ROAD, TITIRANGI</u>
SWP No:	<u>1415-12280</u>
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.

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Waitakere City Council  
Te Taiāo o Waitakere

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

<p><b><u>Send to:</u></b> The Operational Compliance Manager Waitakere City Council Private Bag 93109 Henderson WAITAKERE 0650</p>	<p><b><u>For more information:</u></b> Waitakere City Council Waitakere Central 6 Henderson Valley Road Henderson WAITAKERE 0612 Telephone: (09) 839-0400 Facsimile: (09) 836-8001</p>
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Owner Name: G B Douglas and N C Douglas

Site Address: 58 Jaemont Avenue, TE ATATU SOUTH

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:

2.3m x 2.3m Swimming Pool

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

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---

Address for Correspondence:

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Application fee: \$250.00 (one off)

Signature: \_\_\_\_\_  
Telephone No: \_\_\_\_\_  
Date: \_\_\_\_\_

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

**OFFICE USE ONLY**

Site Address: 58 Jaemont Avenue, TE ATATU SOUTH

SWP Number: SWIM-2001-9762

ABA Number: \_\_\_\_\_  
(If applicable)

**A7**

## **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.

A8

CHEQUE FOR  
\$ 250.00  
~~TO CASHIERS~~

WAITAKERE CITY COUNCIL

28 FEB 2008

008483

27 February 2008

Max Wilde  
Manager Field Services  
Waitakere City Council  
Private Bag 93109  
HENDERSON

Graeme Douglas  
58 Jaemont Ave  
Te Atatu South  
WAITAKERE CITY

Dear Max

**Re: Swimming Pool**

I respond to your letter of the 25<sup>th</sup> of February which replied to mine of the 12<sup>th</sup> of February.

I have decided to approach the Swimming Pool Fencing Committee for a special exemption on items 2, 3 & 5. I understand that the costs involved are \$250 but in the likelihood of a satisfactory resolution on the pool issues that this money will be remitted back to me.

I would be grateful if you advised the Swimming Pool Fencing Committee of my decision and at an appropriate time requested their attention to this issue.

Yours sincerely,



Graeme Douglas

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

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7 February 2008

10801 - 72

Regulatory  
Extension: 8741  
Waitakere Central, 6 Henderson Valley Road  
Ref:maw

G B Douglas and N C Douglas  
PO Box 45027  
Te Atatu Peninsula  
WAITAKERE 0651

Dear Graeme

**SWIMMING POOL ISSUES**

Thank you for taking the time to meet with myself and Neville Exler last Thursday afternoon to discuss your concerns in relation to your pool fencing and the previous correspondence. I will be reviewing the correspondence accordingly.

During our inspection of the pool fence with you we found that the following items still need to be addressed:

- 1. The fence both above and adjacent to the low nib wall (A) adjacent to the top metal gate needs to be raised to a height of 1.2m above the nib wall, for a horizontal distance of 1.2m either side of the nib wall.
- \* → 2. The lower metal gate needs to have it's latch lifted to a height of 1.5m
- \* → 3. The fence at point (B) needs either the lower horizontal rail to be covered so as not to be climbable or the height extended to provide more than 900mm between the bottom rail and top rail of the fence, for a horizontal distance of 1.2m
- 4. Reinstate the timber fence at (C) to a height of 1.2m and remove the bricks and any other climbable items from the edge of the fence. (This will negate the need to remove any gardening equipment currently behind the lower pool fence)
- \* → 5. Both trees adjacent to the brick wall at the top of the pool were considered to be climbable and need to be suitably pruned or removed.
- 6. Leaf litter build up behind the brick wall and timber fence (D) needs to be removed in order to achieve a measured height of 1.2m

\* EXEMPTION REQUEST.

The above items are relatively straight forward to put right however you do have the option of applying to the Swimming Pool Fencing Committee (The Committee) for a special exemption should you disagree with the need for complying with any or all of these items. The Committee has an element of discretion in how the Fencing of Swimming Pools Act is applied that the Act does not extended to Council Officer's. An application form is enclosed should you wish to pursue this option.

To facilitate any of the required work I am only to happy to arrange for Mr Exler to meet any contractors on site, prior to any work being done, to advise on the specific requirements of any of the above items.

I will also arrange for a double check to be made of the safety gate leading into the paths surrounding the duck pond, adjacent to the playing area beside the beach at Te Atatu Peninsula, that has caused you some concern.

Should you have any further queries in relation to your pool fence please do not hesitate to contact me.

Yours faithfully



Max Wilde  
Manager Field Services

A10

CHEQUE FOR  
\$ 250.00  
TO CASHIERS  
Attached



**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 FT Chan and VV Chan

**OFFICE USE ONLY**

**SITE ADDRESS:**

21 Sakler Drive  
West Harbour

**SWP NO:** -2007-90

**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:

Attached window stays, added deadbolts to doors and added spring mechanism to gate

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

Please see attached sheet.

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

**ADDRESS FOR CORRESPONDENCE:** .....

**APPLICATION FEE:** \$250.00

Signature: .....

Telephone No: 942 1172

Date: .....

**ENTERED**

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

**All**

## 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.

ENTERED  
27/11/06

A12

RECEIVED  
31 JAN 2008  
Legal

WAITAKERE CITY COUNCIL

31 JAN 2008

006442

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

29th January 2008

Regarding Exemption application for Swimming Pool SWIM-2007-90

Dear Sir

I am writing on behalf of Chan family for the purpose of applying for an exemption to be applied against two non-complying items.

The house in question was only built in 1997 and we were surprised when it was brought to our attention via communication with Reg Pritchard from Waitakere City Council that items were non-compliment in relation to the Randerson Judgement of 2 August 2004. Remedial action was subsequently taken and after re-inspection by Reg some items now comply.

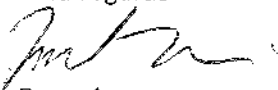
However there are still two non-compliant items that we seek dispensation for.

The Chan's have two sets of double doors that open outwards into the immediate Swimming pool area. In an effort to make the situation safer they have had lockable deadbolts fitted at the top of each door which is locked when the pool is not in use. To have to have these doors replaced to open inwards would be very expensive and would drastically reduce the liveable area available to this large family of six. We hope that the steps we have already taken with the doors will allow the pool area to continue to be used as it exists.

The other non-compliant item is that the pool area has an access way to an electric meter box. We believe that this mixed use would only ever occur when the power meter was being read and that this reading activity would only ever be undertaken by an adult. We believe that the expense of having to have this power meter moved is disproportionate to the mixed use issue of having an adult read a power meter.

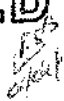
I hope that upon your re-inspection that you look favourably on our request for dispensation. I look forward to seeing you onsite and discussing this with you further.

Kind regards



Dene Amos  
021 704 635

ENTERED



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