

Fencing of Swimming Pool Act 1987 (FOSPA 1987) Special Exemption Evaluation Sheet

<p>Address 11 Upland Road Remuera Date: 14 September 2016 DP: LOT 3 DP 43614</p>
<p>Item(s) requested in accordance with FOSPA 1987 at last inspection:</p> <p>The pool situated at the above property is not fenced as per FOSPA 1987.</p>
<p>Item(s) exemption is applied for:</p> <p>To use the three existing french doors and one tri-fold door that open into the pool area.</p>
<p>Comments:</p> <p>This is a new consent and the pool has not yet been installed.</p> <p>The rear of the existing dwelling forms part of the pool fence in which the doors are located.</p> <p>All of the doors opening into the pool area will be fitted with self-closing devices and self-latching devices at 1.5m. All windows to be fitted with restrictors to ensure they open no more than 100mm.</p> <p>It is therefore recommended that the committee grant the exemption on the condition that the self-closing and self-latching devices are maintained in good working order at all times.</p> <p>The Board can also decline the application where the elected members are satisfied, having regard to the particular characteristics of the property and pool and any other relevant circumstances, that the granting of exemption will significantly increase the danger to young children.</p> <p>A site visit by the Local Board Committee members is not recommended.</p> <p>Pool ID: <i>Not yet allocated.</i></p>

Committee Member Comments:

Application for special exemption under section 6 of the Fencing of Swimming Pools Act 1987



GUIDANCE INFORMATION

Council may grant an exemption where the circumstances warrant a dispensation from the Fencing of Swimming Pools Act 1987. Your attention is drawn to the Fencing of Swimming Pools Act 1987, section 6 and clause 11 of the Schedule.

Special exemptions, s.6

1. Council may, by resolution, grant an exemption from some, or all of the requirements of this Act in the case of any particular pool where Council 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), that such an exemption would not significantly increase danger to young children
2. In granting an exemption under subsection (1), Council 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 Council, by resolution

Schedule: Clause 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 to the extent (if any) that the Council 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

A full copy of The Fencing of Swimming Pools Act 1987 is available on the following website link www.legislation.govt.nz
 Auckland Council Code of Practice Swimming Pools is available on the Auckland Council website (see link) [Swimming pool fencing code of practice](#)

Documentation required to support application:

A site plan must be provided including all measurements of the immediate pool area, the pool size and location. The plan is to include all pool fencing details, including any wall of the dwelling used as part of the fencing, if this forms part of the fence. The plan must detail the materials of which the fences are constructed

Important notes:

1. Failure to provide information on any material matters may result in a request for further information
2. Until an exemption is determined, the pool must be made compliant with the Act; one way of achieving compliance is to drain water from the pool to a maximum depth of 400mm. However, if you intend to drain the pool, we recommend that you consult a pool professional before draining water, to avoid damaging your pool.

OWNER

Name:	Sarah McMullin & Stephen Tordeich		
Mailing address:	11 Upland Rd Demuera	Agent Natural Pools NZ	Postcode: <input style="width: 80%;" type="text"/>
Private:	09 237 11 24	Business:	<input style="width: 80%;" type="text"/>
Facsimile:	<input style="width: 80%;" type="text"/>	Mobile:	021 530 267
Email address:	info@naturalpoolsnz.com, sarah.mcmullin@		

POOL DETAILS

Property address:	11 Upland Rd Demuera	Postcode: <input style="width: 80%;" type="text"/>
		Type: <input checked="" type="checkbox"/> Swimming pool <input checked="" type="checkbox"/> Spa pool



ITEMS OF NON-COMPLIANCE:

Note: If there is insufficient space on this form, please attach your reasons in a separate letter.
 Please refer to information provided to you by the Council's Inspector and list non-compliance below:

doors in building forming part of the pool fence

REASONS FOR NON-COMPLIANCE:

Please list those matters from above for which you are seeking an exemption (give full description of exemption required):

door opening the wrong way. They are opening into the pool area

REASONS WHY THE EXEMPTION SHOULD BE GRANTED:

I cannot comply with the above requirements of the Fencing of Swimming Pools Act 1987 because:

existing doors, would destroy character of heritage vda & reasons, see letter attached with outlined reasons

TO BE COMPLETED BY OWNER

I / We apply for an exemption from the requirements of the Fencing of Swimming Pools Act 1987, as set out above and certify that all other pool fencing requirements are in accordance with the Act.

I wish to be present at the hearing (please tick) Yes No

*All applications must be accompanied by a deposit; please refer to Councils Fees and Charges Schedule on our website to determine the amount payable.

Deposit fee \$ _____ attached.

All the above information is, to the best of my knowledge, true and correct. I understand that all plans, documentation and reports submitted as part of this application are required to be kept as a matter of public record. Therefore, the public may view this application, once it has been submitted.

Signature: Alexander T. [Signature] Agent, Director of Natural Parks & Recreation
 Print name: Alexander Traut Date: 12/8/16



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12 August 2016

BC number B/20165235
Address: 11 Upland Road, Remuera 1050

Hi Paul,

Please add this letter to our application for exemption of the Fencing of Swimming Pools act BC number B/20165235

1.

In regards to the doors opening into the pool area. The owners don't want a pool fence in front of the building between the house and the pool. The garden space is very narrow and a fence would limit the space for the pool. The pool design reflects to make the most of the space as a pool, not losing valuable area to allow for fencing and feel like swimming in a prison.

Therefore we think the security level provided by the swish automated closing mechanism are given to prevent children under five from drowning, even though the doors are opening into the pool area. A healthy portion of common sense should convince that with doors with handles above 1.5m, self-closing and self-latching mechanism, there is no difference which way the door actually opens. The doors are always shut and a young child can't reach the door handles at this height anyway, whether the doors opens in or out.

The villa is an old building and has lovely existing doors.

We herewith apply for a Special Exemption from FOSPA in regards to the inward to the pool area opening French doors and bifold doors as an alternative solution.

We refer to paragraph 6. of our last letter.

Copied here:

Please see red marked paragraph, doors have been allowed to open outwards before.

The FoSPA has been the law for almost 30 years now. But time has changed, technology has changed, architecture has changed and certainly the way we live our lifestyles especially in regards to how we use our homes and gardens. We don't drive around in 30 year old cars, use the mobile phones from 1987 or live in houses that were built to the standards 30 years ago. The NZS 8500-2006 was meant to take these changes into consideration with a more common sense approach without compromising on the main reason for the FoSPA 87 – to save children from drowning.

Auckland Council's Code of Practice for swimming pool fencing is an interpretational opinion of the legislation that had gone largely unchallenged until the publication of NZS 8500-2006 which was written and published as a compliance document.

NZS 8500-2006 advises, hinged door-sets can swing in either direction...

<http://www.aucklandcouncil.govt.nz/EN/ratesbuildingproperty/consents/Consent%20documents/ac3310codeofpracticeswimmingpoolfencing.pdf>

It also says under Section B

9.2 Hinged doors must:

Be determined by Team Leader assessment to be at the edge of the immediate pool area.

Not open inwards towards the immediate pool area.

Be fitted with a self-closing device capable of closing the door if it is opened 150mm or more.

Be fitted with a self-latching device at least 1.5 meters off floor level.

Be clear of anything that could hold them open.

Double doors (e.g.; French doors) must both independently self-close and self-latch at 1.5m or have one side of the door permanently fixed shut. Padlocks, keyed tower bolts and tower bolts are acceptable to secure the fixed door. It is the owner's responsibility to ensure that these bolts and or padlocks are maintained and remain locked.

But then it continues and this is from July 2014!!!!!!!!!!!!!!

Auckland Council "Swimming Pool Fencing – Code of Practice"

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Note: Casement and French doors have been allowed to open inwards towards the pool in the past. These doors will require keyed tower bolts to be fitted. French doors Auckland Council "Swimming Pool Fencing – Code of Practice"

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will not be approved without self-closers, latching devices and tower bolts for all new building consent applications.³⁶

Note: Other options are to isolate the pool from the door/s, or to install a self-closing, security screen door.

The Swish Company will alter the inward opening French doors with self-closers, latching devices and tower bolts.

Therefore it should comply as an alternative solution.

We herewith apply for a Special Exemption from FOSPA in regards to the inward to the pool area opening French doors and bifold doors as an alternative solution.

Taking into account what is written under

C.3 "Special Exemptions" from FOSPA

3.1 Definitions – "special exemptions" (section 6, and clause 11 of Schedule, FOSPA)

3.1.1 A territorial authority may, by resolution, grant an exemption from some or all of the requirements of FOSPA 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, and any other relevant circumstances, and any conditions it imposes, that such an exemption would not significantly increase the danger to young children.

Last not least we want to refer to what is written under

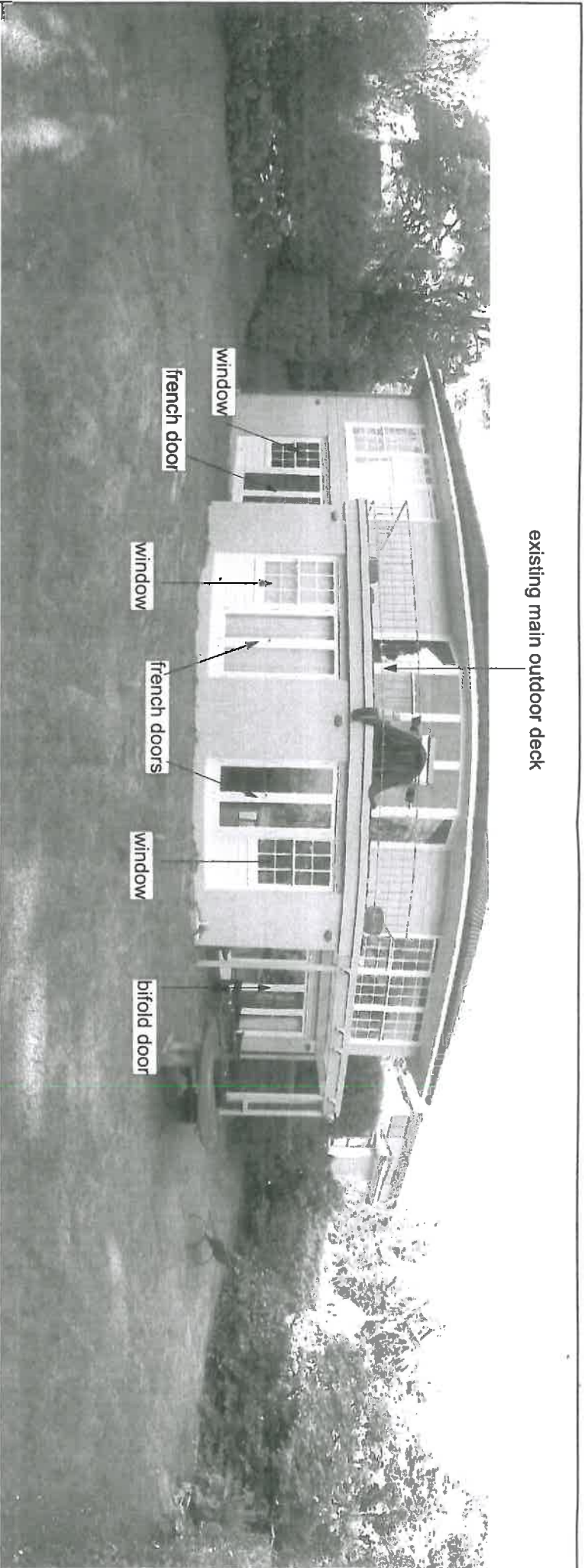
Section A
Background – Policy and Rationale

16. This 'Code of Practice' is a **working** document. It is expected that, over time, alternative solutions will be developed, and processes further refined and improved. Therefore, suggestions and feedback are important and welcomed.

Kind Regards

Alex Traut
Hans Brutscher

Directors



ISSUE: For Building Consent
 DRAWN: Alex
 SHEET: BC 10
 SCALE: NTS @ A3
 DATE: 28 June 2016

DRAWING TITLE
Natural Pool - Working Drawings
 elevations - photos

JOB TITLE
Sarah McMullin and Stephen Tordeich
 11 Upland Road, Remuera

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11 Upland Road Remuera



Scale @ A4
= 1:500

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14/09/2016

