

Chairperson and Committee Members  
**REGULATORY MANAGEMENT COMMITTEE**

**23 FEBRUARY 2012**

Meeting Status: **Public**

Purpose of Report: For Decision

**APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE  
FENCING OF SWIMMING POOLS ACT 1987 - 7 MONTEROSSO  
PLACE, PARAPARAUMU.**

**PURPOSE OF REPORT**

- 1 The purpose of this report is to consider an application by Neil and Angela Olsen for an exemption under Section 6 of the Fencing of Swimming Pools Act 1987 (**the Act**), in respect of a portable spa pool at 7 Monterosso Place, Paraparaumu.

**SIGNIFICANCE OF DECISION**

- 2 The recommendations in this report do not trigger the Council's significance policy.

**BACKGROUND**

- 3 The specific exemption requested is for "*portable spa pool*". This application (**Attachment 1**) is the result of a recent inspection by the Council's monitoring staff and a request by the property owner to seek an exemption from some of the requirements of the Act. The following sections outline details of the application and relevant sections of the Act.

**CONSIDERATIONS**

Issues

- 4 The spa pool is currently empty and is an "Exempted Pool" under Section 5(b) of the Act.
- 5 Section 4 of the Act states that all pools are required to comply with the Act at any time when the pool is filled or partly filled with water. Mr & Mrs Olsen have indicated that they would like to fill the spa pool, which is the reason for this application.
- 6 The spa pool has been inspected by a Council officer who has confirmed the applicant meets all the criteria for an exemption as set down in the agreed "*Application for Special Exemption for Portable Spa Pool*", as adopted by this Committee on 27 April 2006 with the exception of the warning sticker which Council will supply. The application also meets the requirements of "*New Zealand Standard 8500:2006 Safety Barriers and Fences Around Swimming*

*Pools, Spas and Hot Tubs*". The applicant has also signed the "Statement of Undertaking".

- 7 It is the opinion of the reporting officer that this application could be approved subject to the conditions listed in the "Recommendations" being met because the applicant's proposal would not significantly increase danger to young children. The application is similar to others that the Committee has previously considered and granted, subject to similar conditions.

## **Financial Considerations**

- 8 There are no financial considerations.

## **Legal Considerations**

- 9 The Committee is required to address the matters as set out in the Act and if it were to grant an exemption the Committee must be satisfied, having regard to the particular characteristics of the property, the pool and any other relevant circumstances, that such an exemption would not significantly increase the danger to young children.
- 10 If the Committee was to grant an exemption under section 6(1) of the Act, then it may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.
- 11 Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

## **Delegation**

- 12 Under the Governance Structure 2010-2013 Triennium, the Regulatory Management Committee has the delegated authority under Section B.2 7.4.3 to:

*"exercise all of the Council's functions, duties and powers under the Fencing of Swimming Pools Act 1987"*

## **RECOMMENDATIONS**

- 13 That the Council approve the application for exemption under Section 6 of the Fencing of Swimming Pools Act 1987 and not require a fence to be placed around a portable spa pool at 7 Monterosso Place, Paraparaumu, subject to the following conditions being complied with:
- The pool has a height of 760mm or greater above ground or deck level and no objects are positioned so as to allow a young child to climb onto the cover; and
  - The property has suitable barriers in place to prevent a child up to the age of six years gaining access from outside the property, and the lockable spa cover meets the set criteria as stated below:

- the cover is lockable and able to be kept locked when the pool is not being used or supervised;
- the locks cannot be opened or released by a child up to the age of six years;
- the cover cannot be lifted more than 100mm above the top of the spa, when locked in place;
- the cover must be made of material that can withstand the weight of at least 60 kgs to ensure that it would withstand the weight of a child up to six years;
- the cover must be constructed of a suitable material and not allow water to pond on top of it;
- the cover and locks must be maintained in a good state of repair; and
- suitable warning stickers/signs be placed on the cover to advise that it must be locked in place when the pool is not being used or supervised.

**Report prepared by:**

**Approved for submission by:**

**Peter Ropata  
COMPLIANCE OFFICER**

**Tamsin Evans  
GROUP MANAGER  
COMMUNITY SERVICES**

**ATTACHMENTS:**

1. **The application**
2. **Exempt pool letter**
3. **Photo**



Special Exemption for Spa Pool under Section 6 of the Fencing of Swimming Pools Act 1987 can be considered for portable spa pools, where:

- The pool has a height of 760mm or greater above ground or deck level and no objects are positioned so as to allow a young child to climb onto the cover.
- The property has suitable barriers in place to prevent a child up to the age of six years gaining access from outside the property, and the lockable spa cover meets the set criteria as stated below:
  - The cover is lockable and able to be kept locked when the pool is not being used or supervised.
  - The locks cannot be opened or released by a child up to the age of six years.
  - The cover cannot be lifted more than 100mm above the top of the spa, when locked in place.
  - The cover must be made of material that can withstand the weight of at least 60kgs to ensure that it will more than take the weight of a child up to six years.
  - The cover must be constructed of suitable material so the water will not pond on top of it.
  - The cover and locks must be maintained in a good state of repair.
  - That suitable warning stickers/signs be placed on the cover to advise that it must be locked in place when the pool is not being used or supervised.
  - That the property owner/tenant sign a statement of undertaking, taking full responsibility to ensure the above requirements are adhered to.

**Statement of Undertaking**

I (insert name) Neil & Angela Olsen being the owner/tenant of the property detailed in the above application do hereby give my undertaking accepting full responsibility to ensure that the condition attached to my application for exemption under the Fencing of Swimming Pools Act 1987 will be adhered to at all time that the spa pool is filled.

Signed Neil A Olsen  
Date 13-01-2012

Witnessed by: Name C. J. J. J.  
Signature [Signature]  
Date 18/01/2012

**Attachment 2:**

**Kāpiti Coast District Council**

Private Bag 60 601  
Paraparaumu 5254  
New Zealand

COPY



File: SW1749

18 January 2012

Neil Olsen  
Angela Olsen  
7 Monterosso Place  
Paraparaumu Beach  
**PARAPARAUMU 5032**

Dear Neil & Angela

**POOL FENCING AT 7 MONTEROSSO, PARAPARAUMU**

An inspection of the above property on the 18<sup>th</sup> January 2012, for the purpose of determining compliance with the Fencing of Swimming Pools Act 1987 (**the Act**), revealed the following:

The maximum depth of water in the pool did not exceed 400mm and is therefore **EXEMPT** under Section 5(b) of the Act.

Please remember that your pool meets **section 5(b) only** when it contains less than 400mm depth of water. If you wish to refill your pool you are required to comply with the provisions of the Act. In this event, you will need to contact Council to arrange for your pool to be re-inspected.

To ensure the pool remains exempt or complies with the Act, random inspections may be made.

If you have any questions regarding this letter, please contact the writer for further assistance.

Yours sincerely

Peter Ropata  
**COMPLIANCE OFFICER**

*delivering on the community's plan*

**KĀPITI COAST**  
**DISTRICT COUNCIL**  
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**Attachment 3:**



Portable spa pool – 760mm above ground level.