

**Chairperson and Committee Members**  
REGULATORY MANAGEMENT COMMITTEE

1 NOVEMBER 2012

Meeting Status: **Public**

Purpose of Report: For Decision

**APPLICATION FOR EXEMPTION UNDER SECTION 6 OF THE  
FENCING OF SWIMMING POOLS ACT 1987 - 91 KAKARIKI  
GROVE, WAIKANAЕ.**

**PURPOSE OF REPORT**

- 1 The purpose of this report is to consider an application by Ashley & Christine Vendt for an exemption under Section 6 of the Fencing of Swimming Pools Act 1987 (**the Act**), in respect of a portable spa pool which is to be installed at 91 Kakariki Grove, Waikanae.

**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*". The application is for a proposed spa pool. This application (**Attachment 1**) is the result of a recent site visit 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.

**CONSIDERATIONS**

Issues

- 4 This is not an "Exempt Pool" under Section 5 of the Act.
- 5 Section 4 of the Act states that the spa pool is required to comply with the Act at any time when the pool is filled or partly filled with water.
- 6 The applicants have signed the "Statement of Undertaking" advising that they will ensure that all conditions of the special exemption will be adhered to at all times that the spa pool is filled.
- 7 If the exemption is granted, the spa pool will be inspected by a Council officer who will confirm 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. The applicant has also signed the "Statement of Undertaking".
- 8 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

- 9 There are no financial considerations.

## Legal Considerations

- 10 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.
- 11 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.
- 12 Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

## Delegation

- 13 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

- 14 That the Regulatory Management Committee approves 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 91 Kakariki Grove, Waikanae, 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:**

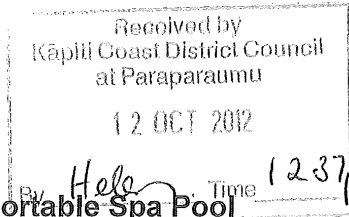
**Peter Ropata  
COMPLIANCE OFFICER**

**Tamsin Evans  
GROUP MANAGER  
COMMUNITY SERVICES**

**ATTACHMENTS:**

1. The application
2. Site plan
3. Spa pool brochure

**Attachment 1: The Application.**



**Application Form - Special Exemption for Portable Spa Pool under Section 6 of the Fencing of Swimming Pools Act 1987**

Application for an exemption for spa pool is made in accordance with the details set out below:

1. Physical address of property where spa pool is sited. 91 KAKARIKI GROVE, WAIKANAЕ
2. Full name and address of property owner ASHLEY & CHRISTINE VENDT  
91 KAKARIKI GROVE, WAIKANAЕ
3. The property is occupied by owner/~~tenant~~
4. Contact details of owner 027 50 20758 Day time phone contact number  
904 2758 After hours phone contact number  
....."..... Fax number  
ashley@windowslive.com Email address
5. This application for exemption relates to a portable spa pool (see overleaf)
6. I believe my portable spa pool meets all the conditions specified by Council: Yes/~~No~~
7. If no, specify any points that you believe may not comply:

Application is made by [Signature] [Signature] 10.10.12  
(signature of owner) (date)

All the relevant information on this form is required to be provided under the Fencing of Swimming Pools Act for Kapiti Coast District Council to process your application. Under this Act, this information has to be made available to members of the public including business organisations. The information contained in this application may be available to other departments of Council. You have the right to access the personnel information held about you by the Council which can be readily retrieved. You can also request that the Council correct any personal information it holds about you.

This application must be accompanied by:

- Fee of \$242 17592714
- A site plan showing the subject of this application (if considered necessary)
- Photographs showing the spa pool relating to this application

FOR OFFICE USE ONLY GL Code	
Date Received	<u>12 October 2012</u>
Receipt Number	<u>426058</u>
Hearing Date	<u>21/11/2012</u>
Exemption Granted/Decline	.....
Applicant Notified	.....
Pool Register updated	.....

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

- o 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.
- o 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) ASHLEY E CHRISTINE LEWIS 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 [Signature].....

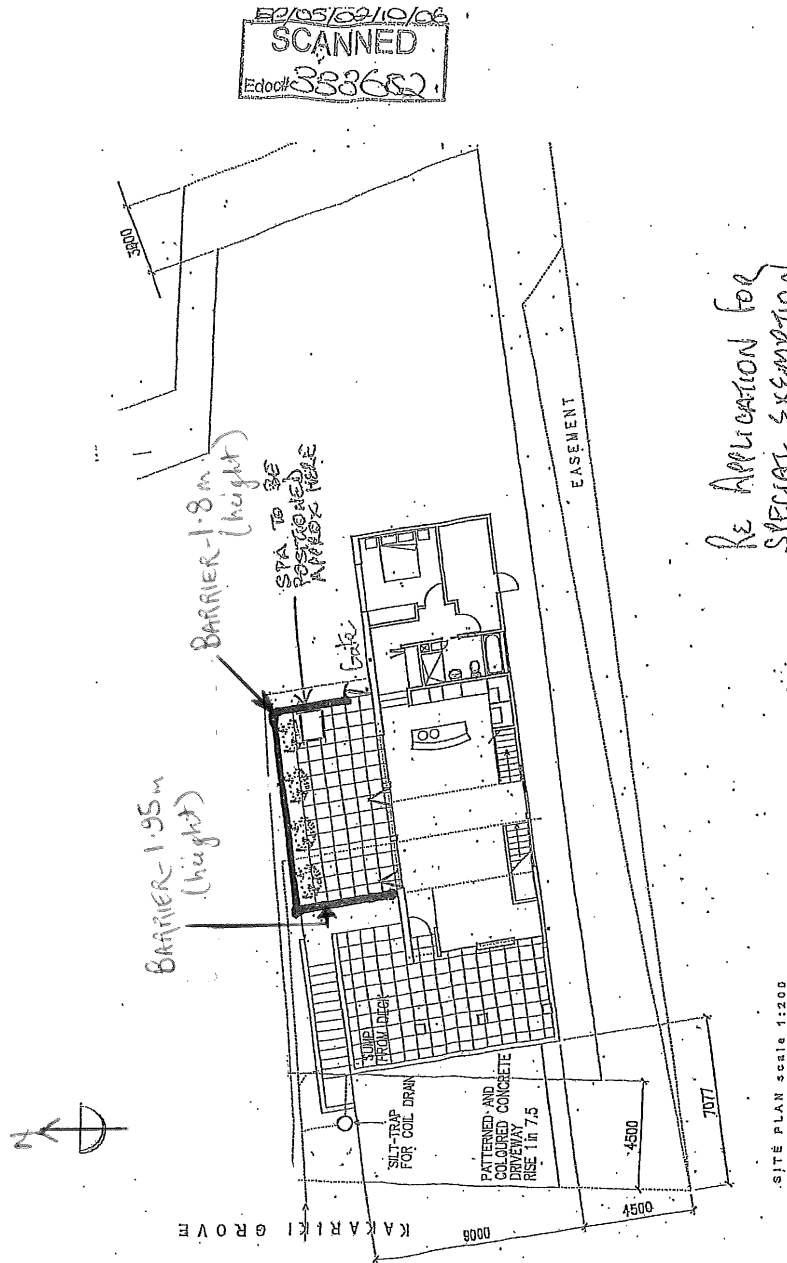
Witnessed by: Name... Stephanie Queen

Date... 9/10/12.....

Signature ... [Signature].....

Date... 9/10/12.....

**Attachment 2: Site Plan.**



RE APPLICATION FOR  
SPECIAL EXEMPTION  
FOR PORTABLE SPA POOL.

Ref # 17592714.

Thanks  
Ashley Vondt

**Attachment 3: Spa Pool Brochure.**

Proposed Spa Pool

SULTAN - 4 PERSON SPA POOL



Sultan spa specs

- 4 Person
- 9 Jets
- Digital Touchpad Control
- 2hp 2speed Pump
- 2 kW Heater
- 4 Moulded Padded Headrests
- Lockable Hard Cover
- Cedar Cabinet
- Power: 15 amp 3 Pin Socket
- Capacity: 700 litres
- Size: 1985mm x 1775mm x 760mm